B. Sales

1952.

File No.

Legal Deptt.

B BRANCH

Subject:—

L.A. Bill no. XXIX of 1952—

Re Bombay Sales Tax Bill, 1952—

Bom Act XXIV of 1952—

P 1265 E

P 1265 E

(pts. I & II bound together)

File No. B. Sales Tax/52—

Gen. 194 e.

Legal Department.

The proposal of F.D.is that a Bill should be drafted to amend several provisions of the Bombay Sales Tax Act,1946. Since its enactment in 1946,the Act has been amended as many as not less than nine times. Several provisions as section 18A, 13A and 8A and 8B have been inserted in between its original provisions.The result has been that the Act has become very cumbrous.It would not therefore be proper to encumber it still more by the insertion and deletion of other provisions.Moreover in the amendments proposed by F.D. the whole basis of the Act which is contained in sections 5,6 and 7 is proposed to be altered.It would therefore be advisable to recast the whole Act and to pass entirely a new Act.In doing so the provisions made in the Merged States(Laws) Act,particularly those applying to the District of Amreli have to be taken into consideration.

2.In recasting the Act,the main point which has to be taken into consideration is reference to the supply of goods which occurs in some of the provisions.The tax is to be imposed under entry No.54 in List II in the Seventh Schedule to the Constitution.That entry relates only to "taxes on the sale or purchase of goods" It does not relate to the supply of goods which does not amount to a sale. It is true that severalState enactments except that of Madras refer to the supply of goods.But from a strict legal point of view a tax on a mere supply of goods has been omitted.On the other hand to provide for such cases as a club supplying or distributing the goods to its members,it is provided in the definition of "sale" that such supply or distribution would be deemed to be a sale (cf.section 2(41)(c) of the Bombay Prohibition Act).

3.(i) The D.S.F.D.with whom the draft Bill was discussed stated that the intention is to exempt an agriculturist dealing in agricultural produce (but not a co-operative society dealing in such articles) from the provisions of the payment of general sales tax. It is,therefore,necessary to

Legal Department.

The proposal of F.D.is that a Bill should be drafted to amend several provisions of the Bombay Sales Tax Act,1946. Since its enactment in 1946,the Act has been amended as many as not less than nine times. Several provisions as section 12A, 15A and 8A and 8B have been inserted in between its original provisions.The result has been that the Act has become very cumbrous.It would not therefore be proper to encumber it still more by the insertion and deletion of other provisions.Moreover in the amendments proposed by F.D. the whole basis of the Act which is contained in sections 5,6 and 7 is proposed to be altered.It would therefore be advisable to recast the whole Act and to pass entirely a new Act.In doing so the provisions made in the Merged States(Laws) Act,particularly those applying to the District of Amreli have to be taken into consideration.

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3.(1) The D.S.F.D.with whom the draft Bill was discussed stated that the intention is to exempt an agriculturist dealing in agricultural produce (but not a co-operative society dealing in such articles) from the provisions of the payment of general sales tax. It is,therefore,necessary to

define the term "agriculturist"in the Act and to exclude him from the definition of the word "dealer". In doing so the definition of "agriculturist" in the Bombay Tenancy & Agricultural Lands Act,1948,has been adopted .But a person keeping a dairy or pultry farm is excluded.

(2)The present section 5(1)of the Act authorises the Government to specify a date by means of a notification for the purpose of calculating the gross turnover of a dealer to make him liable to pay the sales tax under the Act with effect from the commencement of the Act, It is now proposed to fix a uniform limit of Rs.30,000 in respect of all dealers in a year. It is not therefore necessary to retain the reference to the notification to be issued by the Government. That sub-section has already served its purpose and in order that no confusion may be created and also for the reasons stated below in sub-para.(4), it is advisable to recast the whole sub-section with reference to new proposal. In view of this revised draft of sub-section (1) of section 5 the provisions contained in sub-section (4A) of draft section 5 in F.D.'s draft are no longer necessary.

(3)The fresh proposal of Government is to create two classess of dealers.The first class will consist of registered dealers whose gross turnover exceeds Rs.30,000/- a year and the second class of dealers whose gross turnover in specified articles exceeds Rs.1000 a year. The second class of dealers may be dealing exclusively in the special articles,and it is therefore necessary that the provisions of the issue of a licence should be similar to those of a certificate required in the case of registered dealers. New section 10 provides accordingly. It also appears from F.D's draft that the class of dealers which under the existing section 5 falls under clauses (a) and (b) of sub-section (1) of section 5 of the Act is no longer made liable to pay general tax.

(4)In the proviso to section 80(1),it is proposed by F.D that no special tax shall be payable by a dealer for any year during which his total turnover has not exceeded Rs.1000/-;

but it appears from the proviso to section 8D(1) as proposed by F.D. that the dealer whose total turnover in respect of the sales of all special goods during each of the three preceeding years has been not more than Rs.1000/- is required to obtain a licence.It is presumed that the intention is that he ceases to be liable to pay tax only when his total turnover in special goods has not been more than Rs.1000/- for three consecutive years.

(5)The Finance Department has not noticed that section 5 of the Bombay Sales Tax Act in its application to the various merged states has been specifically amended by the Bombay Merged States(Laws) Act,1950. F.D. should consider whether clause 43 of the Bill relating to the district of Amreli is in order.

(6)It is necessary to add a saving clause continuing the liability of the dealers incurred by them under the Bombay Sales Tax Act before it was amended by the present Act.

(7)The subject matter of the Bill falls under entry 54 in List II in the Seventh Schedule to the Constitution.The Bill requires recommendation of the Governor under Article 207(1) of the Constitution. It will be necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution as the last amending Bill was reserved for such consideration.

(8)A draft Bill as appended has been prepared.The corresponding provisions of the present Act are shown in the margin against each clause,

Sd/-
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Additional Secretary to Government.

VHB 25/8 4 0

U.O.to F.D.No.52- Secret.dated 9th January 1952.

CONFIDENTIAL. Legal Department.

The amendments suggested by Shri Gidwani to the draft sales Tax Bill were considered and a revised draft Bill is prepared.The amendments suggested by Shri Gidwani are incorporated in the revised draft with certain alterations. The alterations are mainly as under:-

	Amendments suggested.	Alterations made.
1.	Definition of the expression "gross turnover".	A definition of the expression "total gross turnover" is included in section 2 and that expression is used in other relevant sections.
2.	Amendment to Explanation I to the definition of the word "Sale".	According to the provisions of the sale of Godus Act,under a hire purchase transaction the property in goods may not pass to the purchaser from the date of the agreement as a hire purchase agreement does not constitute a transfer.It is,therefore,clearly provided that notwithstanding the provisions of the Indian Sale of Goods Act,1930,in the case of an agreement for hire purchase or other instalment system of payment such agreement shall be deemed to be a sale on the date of such an agreement.
3.	Insertion of section 8A.	Section 11 is inserted in the revised Bill.It is made clear that only those goods,the sales or supplies of which were deducted for calculating taxable turnover and which have remained in the custody of the dealer,shall be liable to tax,
4.	Insertion of section 10A.	Section 14 is inserted in the revised Bill.It contains provisions similar to those in section 11.
5.	Section 43-to delete the limit of Rs. 15,000/-specified in the section.	In the revised section 47,the limit is retained.The intention of this section is to bring the provisions of the Bombay Act in line with the provisions of the Saurashtra Act so far as the District of Amreli is concerned.
6.	Rearrangement of Chapters and regrouping of sections.	The present order of Chapters and sections is not disturbed as it is not necessary to do so.

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Additional Secretary to Government.

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x D.S.F.D.C Shri Nadkarni)

x 409 Cmpbl/2.5.52

Legal Department.

Clause 19 in the Bombay Sales Tax Bill has been inserted to prevent the evasion of the law relating to sales tax. Under the Bombay Sales Tax Act, 1946, which at present is in operation, the tax is payable by a dealer. The word "dealer" is defined in the Act as a person who carries on the business of selling or supplying goods in the State or Bombay. If a person carries on the business of selling outside the State, he is not a dealer within the meaning of the Act and is not liable to pay the sales tax. Taking advantage of this provision, it has come to notice that attempts are made to effectuate sales through a person outside the State of Bombay. Thus a person who intends to buy a car from a dealer in Bombay, arranges that the transaction of sale should take place through another person outside the State Bombay. In order to prevent such evasion, it is proposed to insert this clause in the Bill.

2. The clause provides that if any goods despatched or brought from any place outside India and are delivered for consumption or use in the State to another person as a direct result of a sale in his favour shall be liable to pay the tax under the Act, unless the said person is able to show that a dealer in the State will pay the tax on the sale of such goods. Thus in effect the provision purports to provide for the levy of a tax in the nature of a purchase tax on the goods. It may however be noted that the purchase tax which is sought to be levied under the clause is at the same rate as the sale tax.

3. The question which will arise for consideration is whether this provision offends against the provisions of Part XIII (Art. 301 to 307) of and item No. 42 in List I in the Seventh Schedule to the Constitution. The clause as drafted does not apply to the goods brought or imported across the customs frontier. No question of the clause offending against item No. 41 in List I in the Seventh Schedule to the Constitution arises. The said item relates to "Trade and commerce with foreign countries; import and export across

customs frontiers".As the clause expressly does not apply to the goods imported from places outside India,no question of the clause being inconsistent with that item arises.Item No. 42 in List I in the Seventh Schedule relates to inter-State trade and commerce.Article 301 provides that subject to the other provisions of Part XIII,trade,commerce and intercourse throughout the territory of India shall be free.Article 302 empowers the Parliament to impose restrictions on the freedom of trade,commerceor intercourse between one State and another in India.A State Legislature is not empowered to impose such restrictions.Article 304 empowers a State Legislature to impose on goods imported from other States a tax to which similar goods manufactured or produced in the State are subject,so however,as not to discriminate between goods imported and goods so manufactured or produced.

4.It may be argued that a sale of goods brought from outside the State is a part of the inter-State trade and any tax imposed on such sale amounts to interference with the freedom of inter-State trade or commerce.In support of this argument reliance may be placed on such decisions of the American Courts as Brown v. Maryland (1827) 25 U.S.419.These cases have given risa to what isknown as the 'original package' doctrine in America.The application of this doctrine in India was considered by the Federal Court as well as the Privy Council and it was held that the doctrine has no application to the Indian Constitution (Province of Madras v. Boddu Paidanna (1942) F.C.R. 92; Governor General v.Province of Madras (1943) 72 I.A. 91).The point was fully discussed by the Supreme Court in the Prohibition case and it was held that the wide meaning given to the commerce clause in America has no application to Indian Constitution under the Govt.of India Act,1935,or the present Constitution of India (State of Bombay v. Balsara (1951) S.C.R. 682 at p.697-700).

5.Even in America in several decisions of the Supreme Court declared after the decision in Brown v. Maryland,it has been held that the original package doctrine evolved in

Brown v. Maryland has no application to inter-State commerce and also the right of a State to tax a commodity brought within its limits so as not to discriminate between the said goods and those manufactured or produced within the State limits has been affirmed in the following cases:-

Woodruff v. Parham (1869 8 Wall.123
(Ramaswamy's Commerce Clause,p.473).

Brown v. Huston (1885) 114 U.S.622.

Sonneborn v. Keeling (1923) 262 U.S.506.

Thus Willis observes that a State may tax goods carried in inter-State commerce before transportation begins and after they have come to rest inside the State (Willis' Constitutional Law p.512). The clause is therefore valid and does not offend against the Constitution.

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Additional Secretary to Govt.

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D. S. F. D. (Shri Nadhani)

The final copy of the Bombay Sales Tax Act,1952(L.A.Bill No.XXIX of 1952) has been received from the Press.It has come to my notice that in the final copy in two places alterations have been made by the Finance Department without consulting the Legal Department.Clause 25(5) contains the words "then without prejudice to any prosecution." These words have been inserted although they were not there in the final copy which was approved by the Legal Department. The words "then without prejudice to any prosecution" were in the original draft,but as their legality was open to doubt -- and this point was explained to the Finance Department -- with the concurrence of the Finance Department they were omitted from the final copy that wassent to the Press.It is not known under what authority these words are inserted again in clause 23(5). Similarly,in Clause 50,sub-clause (4) has been added to provide that any reference to the Bombay Sales Tax Act,1946, contained in the Bombay Sales Tax Act,1946, shall,with effect from the appointed day be deemed to be a reference to the new Bombay Sales Tax Act.This provision is also entirely unnecessary as section 9 of the Bombay General Clauses Act clearly provides that when an Act is repealed by another repealing and re-enacting Act all references to the repealed Act shall be construed as the reference to the repealing and re-enacting Act.Sub-clause (4) as inserted in clause 50 in the final copy of the new Act refers only to the Bombay Sales of Motor Spirit Taxation Act, 1946,It does not refer to any other enactment which may contain a reference to the Bombay Sales Tax Act,1946.The insertion of sub-clause (4) in clause 50 would mean that in other Acts wherever a reference to the Bombay Sales Tax Act,1946,appears, it will not be read as a reference to the new Bombay Sales Tax Act.Both these points are the points of law and it is regretted that the Finance Department should have inserted these provisions without consulting the Legal Department.As this rather a serious matter it is brought to the notice of the Finance Department.

Sd/-
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Additional Secretary, L.D.
18-7-52.

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F. D. (in Poona)

Clause (3) of Article 286 provides that no law made by the Legislature of a State imposing or authorising the imposition of a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his ascent. This provision would obviously apply to laws made by State Legislatures after Parliament has made a law on the subject of essential goods. All laws previous to the enactment by Parliament on the subject would naturally continue in operation. The expression "law" under clause (3) of Article 286 would apply to a law which is made by the Legislature of a State and which is capable of being submitted for the consideration and assent of the President. It cannot be extended to include subordinate legislation made by the State Government under the principal law passed by the Legislature of a State; for, such subordinate legislation is incapable of being reserved for the consideration and assent of the President.

2. In view of what has been said above, section 3(2) of the Bombay Sales of Motor Spirit Taxation Act would remain in force even after Parliament makes its own law on the subject of essential goods. Sub-section (2) of section 3 gives the State Government the power to prescribe rates subject to the maximum of 12½%. The present rule 13 confines itself to a tax on the retail sales of motor spirits at the rate of 2 annas per gallon. There would be no objection to amending that rule even after the Parliamentary enactment becomes law so long as the amendment is kept within the limits of the maximum provided by sub-section (2) of section 3. What will not be permissible would be an amendment of the section itself modifying the maximum. Such amendment will of course have to be reserved for the consideration and assent of the President.

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Sd/- P.B.Lad
Remembrancer of Legal Affairs P.L.O.

Clause 10 of the Bombay Sales Tax Bill, which is before the Legislature, provided that every dealer who was liable to pay tax under the Act of 1946 before the new Act was put into operation by fixing the appointed day was to be liable to pay an additional tax on the value of goods remaining unsold with him prior to the said date. Clause 14 in similar terms relates to special goods. The object of these clauses was as pointed out in the Statement of Objects and Reasons to equalise the incidence of taxation. Such equilization was necessary on account of two reasons:- (1) The Act of 1946 contained an exemption in Rule I of section 6(3) that goods sold by a registered dealer to a registered dealer were exempt from the payment of sales tax. This was a necessary condition in the Act of 1946 which was based on the principle of single point taxation. This exemption could not obviously find place in the present bill the underlying principle of which is multi point taxation. It is true that clauses 10 and 14 as originally worded did not make it clear whether the tax under clauses 10 and 14 was a tax other than a sales or a purchase tax. But this ambiguity is sought to be cleared up by the amendments to both the clauses as well as by the amendment to the definition of the word "tax" in clause 3(18). The amendments to clauses 10 and 14 make it clear that what is sought to be levied is a purchase tax. This is consistent with the preamble to the Bill which mentions that the tax to be levied under the new Act is either a sale tax or a purchase tax. Under entry No. 54 in List II in the Seventh Schedule to the Constitution it is open to the State Legislature to levy either a sale tax or a purchase tax. The amendments which were proposed to clauses 10 and 14 of the Bill made the point clear and if the clauses had been passed as amended, there was no doubt that they were within the legislative competency of the State Legislature. It is true that the clauses as amended would have resulted in imposing a tax on the purchases which were already made. Such levy may

perhaps be held to be retrospective in effect.But it is open to the Legislature to make such levy.Whether such levy should be made or not on the ground of expediency is a matter for Government to decide.To get over such objection,it may be possible to provide that the tax to be levied should not be a purchase tax but the dealers should continue to pay a sale tax at the rate provided for in the Act of 1946. The alternative draft prepared for both the clauses would make the clauses free from objection of retrospective imposition.

Clause 28 has been passed,but clause 29 has been dropped.Clause 29 provides that even after the cancellation of the registration,the dealer is liable to pay the tax. This clause merely repeats the provisions in the present Act. In order to bring out this meaning and to make the clause free from objection,it would be desirable to alter the clause as in the appended draft.The clause so amended will make the clause free form legal objection.

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10. Every dealer who was liable to pay tax under the Bombay Sales Tax Act,1946,immediately prior to the appointed day,shall be liable to pay a tax at the rate specified in the said Act on the sale of the articles(other than the goods specified in Schedule I or II of this Act or Schedule II of said Act and bullion and specie) purchased by him from a registered dealer within the State of Bombay prior to the appointed day during the period of his liability to pay the tax under the said Act as if the said Act was not repealed and was in force at the date of the sale.

14. Every dealer to whom sub-section (1) of section 11 does not apply and who was liable to pay tax under the Bombay Sales Tax Act,1946,immediately prior to the appointed day shall be liable to pay a tax at the rate specified in the said Act on the sales of the articles as purchased by him from a registered dealer within the State of Bombay during the period of his liability to pay tax under the said Act, as if the said Act was not repealed and was in force at the date of the sale.

29. When a certificate of registration or a licence is

cancelled under section 9 or section 14,as the case may be, in any case other than that of a dissolution of a firm or partition of an undivided Hindu family or entire transfer of the business of a dealer,the value of the stock of goods held by him on the date on which the certificate of registration or licence is cancelled shall be included in his turnover for the purpose of computing his taxable turnover under section 7 or section 12, as the case may be,as if the certificate of registration or licence of the dealer has not been cancelled in relation to the stock of the said goods,notwithstanding the fact that his turnover does not exceed the amounts specified in section 5 or 11 as the case may be.

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Confidential.

D.O.No.

Legal Department,
Bombay Castle, 6th August 1952.

My dear Shri Dhurandhar,

I am sending herewith the opinion given by the Advocate-General. The draft as revised last night was shown to him; but he seems to take the view that this revised draft, inasmuch as it makes liable a dealer whose turnover has not exceeded Rs.30,000, goes beyond the underlying principle, namely, that there should be no extension of the liability as under the old Act either in respect of goods or dealers. He prefers the draft which we showed him on Sunday. However, he has given me the liberty to add that if it could be shown that the underlying principle is maintained unimpaired even by the revised draft, he would have no objection to it. Of course there is no objection to either draft on the point of constitutionality. In respect of clause 29, however, he prefers the revised draft, because the draft which we showed him on Sunday afternoon used the words "the value of the stock of goods".

2. He has added a paragraph in his opinion about the expediency in view of the developments which have taken place last week. That of course is a matter entirely for the Chief Minister to decide.

3. I am, therefore, enclosing his opinion together with the drafts as he has approved and the Statement of the Case which I sent him. I am also enclosing separately a statement which I have prepared for the use of the Chief Minister.

4. If necessary, you may consult Shri Gidwani about the drafts and place the matter before the Chief Minister.

Sd/- [illegible].

Shri J.K.Dhurandhar,
Additional Secretary to Government,
Legal Department,
Council Hall, Poona.

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No. 16 of 1952. 402

Advocate General's Chambers,

High Court,

Bombay, August 6, 1952.

U.R. TO THE ADVOCATE GENERAL.

No.771-confl. DATED 6-8-1952.

"I am of opinion that there is no difficulty on the ground of constitutionality.

Having regard, however, to what has happened during the last few days as also the assurance given by the Chief Minister, one may pause before introducing such provisions at this juncture. As to whether it should be expedient to do so or not, it is entirely a matter for Government to consider.

Sd/-

ADVOCATE GENERAL OF BOMBAY.

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Office of the R.L.A.

Attention is invited to clauses 10,14 and 29 of the Sales Tax Bill (L.A.Bill XXIX of 1952). Doubt was cast on the validity of these clauses specially with reference to the wording "tax on the value of goods" which it was suggested impinged upon entry 86 in the Central List and was not within the scope of entry 54 in the State List in the Seventh Schedule of the Constitution. The main purpose of these provisions has been explained in the notes on clauses appended to the Bill. The clauses have now been redrafted so as to avoid any criticism on the ground of constitutional validity and also on the ground of any increase in the taxation in respect of persons or goods which were not liable to tax before. The clauses as drafted provide primarily for the status quo as if the old Act was not repealed, such provision being necessary if the dealer is not to be permitted to retain what he collects from the consumer.

2. The Advocate General is, therefore, requested to favour Government with his opinion about the constitutionality and the necessity of the provisions as redrafted.

Sd/-
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Remembrancer of Legal Affairs.

VE 27/6 4 C U.O. to Advocate General, No.771-Confl, dated 6th August 1952,

No.14004
Legal Department,
Bombay Castle (Bombay No.1),27th August 1952.

From;
Shri J.R.Dhurandhar,
Additional Secretary to the Government of Bombay,
Legal Department.

To:
The Secretary to the Governor of Bombay,

Subject:The Bombay Sales Tax Bill,1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to the Governor the authentic copy of the Bombay Sales Tax Bill,1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 6 th August 1952 and the 16th August 1952, respectively.The amendments made by the Legislative Council were agreed to by the Legsilative Assembly on the 19th August 1952.

2. The subject-matter of the Bill falls under entry 54 in List II in the Seventh Schedule to the Constitution of India. Schedule I to the Bill specifies articles which are exempt from the general tax,while Schedule II specifies articles which are liable to the special tax under the proposed Act.While the Bill was under discussion in the Legsilature,the Parliament under article 286 of the Constitution passed the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase)Act, 1952.A statement appended hereto shows which of the articles declared to be essential goods under the said Act will or will not be taxable under the Bill.As the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase)Act,1952 has come into operation after having been assented to by the President,it would not be open to the State Legislature to authorise the levy of a sale or purchase tax on the articles declared to be essential goods under the said Act without the assent of the President.It is,therefore,necessary to reserve the Bill for the consideration of the President under article 286(3) of the Constitution of India.Attention is however invited to sub-clause (2) of clause 8 and sub-clause (6) of clause 10 of the Bill.Under the said provisions the power has been reserved to

the State Government to make any alteration in either Schedule I or Schedule II by a notification published in the Official Gazette, without having recourse to the State Legislature for the purpose of amending the Bill or the Act, if such alteration is considered necessary for exempting any article from the general or special tax under the present Bill after it comes into force as an Act.

3. A memorandum explaining why it was considered necessary to change the system of levying sales tax from single point to multi-point and why it has not been possible to exempt from taxation all the articles included in the Schedule to the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952 and discussing the financial implications of the measure is attached.

4. I also forward herewith six copies of each of the items

1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos.
2.	Bill as read for the third time and passed by the Bombay Legislative Council.	1 and
3.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 28th, 29th, 30th and 31st July and 1st, 2nd, 6th and 19th August 1952 and of the Bombay Legislative Council dated the 11th, 12th, 14th and 16th August 1952.	2 and two copies

of item No.3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Sd/-
27/8
Additional Secretary to Governm

Copy forwarded with compliments to the Secretary to the Government of Bombay, Finance Department.

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No. GS. 2712

Raj Bhavan,
Ganeshkhind, Poona 7,
August 29, 1952.

From

Shri S.B.Kulkarni, IAS,
Secretary to the Governor.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1.

Subject:-The Bombay Sales Tax Bill, 1952.

Sir,

Referring to the Bombay Sales Tax Bill, 1952, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on August 6 and 16, 1952 respectively, I am directed to state, for the information of the Speaker and the Chairman that as the provisions of Essential Goods (Declaration and Registration of Tax on Sale or Purchase) Act, 1952 which has come into operation after having been assented to by the President, it is necessary to reserve the Bill for the consideration of the President-vide article 286 (3) of the Constitution or India. The Governor has accordingly been pleased under article 200 of the Constitution to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

Sd/.S.B.Kulkarni,

Secretary to the Governor.

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No. GS.2713
Raj Bhavan,
Ganeshkhind, Poona 7,
September 2, 1952.

Copy forwarded with compliments for information to the Additional Secretary to the Government of Bombay, Legal Department, with reference to his letter No.14004 dated August 27, 1952.

Sd/. S.B.Kulkarni
Secretary to the Governor.

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ACTB.

Publication of the Bombay Sales Tax Act, 1952.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No.16611/B,
Bombay Castle, 9th October 1952.

RESOLUTION:- The Law should be published as Bombay Act No.XVIV of 1952 in the Bombay Government Gazette dated the 9th October, 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay,

Sd/- S.V.Dhurandhar.

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Finance Department.),

The Finance Department,
The Examiner of Books and Publications
The Bombay Legislature Department,
} with a copy of the Act.

The Director of Publicity, Bombay,
The Liaison Officer for the Secretariat, Bombay.

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VPB 2./8 4 C * with four extra copies of the Act.

IMMEDIATE. 527

NO.GS. 3166

FROM:-

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO:-

The Secretary to the Government of Bombay,
Finance Department.

RAJ BHAVAN,
GANESHKHIND. October 10, 1952.

Subject:- Bombay Sales Tax Bill, 1952.

Sir,

I am directed to forward herewith a copy of a letter No. 17/62/52-Judl., dated the 7th October 1952, from the Government of India, Ministry of Home Affairs, regarding the Bombay Sales Tax Bill, 1952, together with the authentic copy of the Bill with the President's assent duly signified thereon.

2. I am to request that this office may be informed of the action proposed to be taken by Government on paragraph 2 of the Government of India's letter for communication to the Government of India.

Yours faithfully,

Sd/.T.F.Barker

For Secretary to the Governor of Bombay.

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No.GS.-3167
Raj Bhavan,
Ganeshkhind, Poona 7.
October 10, 1952.

Copy, with a copy of the letter No.17/62/52-Judl., dated the 7th October 1952, from the Government of India, Ministry of Home Affairs, forwarded with compliments to the Additional Secretary to the Government of Bombay, Legal Department, with reference to the correspondence resting with this office endorsement No.G.S.- 2913, dated September 22, 1952.

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Sd/. T.H.Barker
For Secretary to the Governor of Bombay

COPY.

No. 17/62/52/Judl.
Government of India
Ministry of Home Affairs.
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From

Shri E.C.Gaynor,
Deputy Secretary to the Government of India.

To

The Secretary to the Governor of Bombay,
Bombay.

New Delhi-2, the 7th Oct.1952

Subject:-The Bombay Sales Tax Bill,1952.

Sir,

With reference to your letter No.2711,dated the 2nd September, 1952,on the subject noted above,I am directed to say that the President has,under the provisions of Article 201 of the Constitution of India,assented to the Bill.The authenticcopy of the Bill with the President's assent signified thereon is returned herewith.

2. I am also to invite your attention to the Correspondence resting with the Bombay Government's telegram No.67,dated 29th September, 1952, to the Finance Ministry of the Government of India regarding certain amendments,proposed by the latter, to the Bombay Sales Tax Fill concerning leyy of tax on the essential goods.A further communication in this connection will follow from the Finance Ministry shortly after the Finance Ministers' Conference (to be held on the 14th and 15th October, 1952). I am to request you to confirm as soon as possible that the Bombay Government will carry out these amendments in the next session of their legislature as required by the Finance Ministry.

Yours faithfully,

Sd/. E.C.Gaynor

Deputy Secretary to the Government of India

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The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXIX OF 1952.

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette* appoint :

Provided that in its application to the district of Amreli the provisions thereof shall until the State Government by notification in the *Official Gazette* directs otherwise, be construed subject to the modifications specified in section 49.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) " agriculture " with its grammatical variations includes horticulture, the raising of crops, grass or garden-produce, and grazing, but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood ;

(*2*) " agriculturist " means a person who cultivates land personally ;

(*3*) " appointed day " means the day which the State Government may by notification in the *Official Gazette* specify as the appointed day for the purposes of sections 5, 9, 10, 11, 14 and 50

(*4*) " to cultivate " with its grammatical variations and cognate expressions means to carry on any agricultural operation ;

(*5*) " to cultivate personally " means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of one's own family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family ;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour ;

Explanation II.—In the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family ;

(*6*) " Collector " means the Collector of Sales Tax appointed under section 3 ;

(*7*) " dealer " means any person who carries on the business of selling goods in the State of Bombay, whether for commission, remuneration or otherwise and includes a State Government which carries on such business and any society, club or association which sells goods to its members ;

Explanation.—The manager or agent of a dealer who resides outside the State of Bombay and carries on the business of selling goods in the State of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act ;

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause ;

(*8*) " general tax " means the tax leviable under section 5 ;

(*9*) " goods " means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities ;

(*10*) " licensed dealer " means a dealer who holds a licence granted under section 13 ;

(*11*) " prescribed " means prescribed by rules ;

(*12*) " registered dealer " means a dealer registered under section 9 ;

(*13*) " rules " means rules made under this Act ;

(*14*) " sale " with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes any supply by a society, a club, or an association to its members on payment of price or on fees or subscription but does not include a mortgage, hypothecation, charge or pledge ; the words " buy " and " purchase " shall be construed accordingly ;

Explanations.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930— III of 1930.

(1) an agreement for hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller, pending the payment of the entire amount of the price or any part thereof, retains property in the goods as security for the payment of the price, be deemed to be a sale made on the date of such agreement ;

(2) the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State, shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State ;

(*15*) "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged ;

(*16*) "Schedule" means a schedule appended to this Act ;

(*17*) "special goods" means goods specified in column 1 of Schedule II ;

(*18*) "special tax" means the tax leviable under section 11 ;

(*19*) "tax" means the general or special tax or the additional tax payable under section 10 or the tax payable on purchases under section 20 ;

(*20*) "Tribunal" means the Tribunal constituted under section 4 ;

(*21*) "turnover" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period ; and

(*22*) "year" means the financial year.

CHAPTER II.

Sales-tax Authorities and Tribunal.

3. (*1*) For carrying out the purposes of this Act, the State Government may appoint any person to be a Collector of Sales Tax, and such other persons to assist him as the State Government thinks fit. Taxing authorities.

(*2*) A person appointed under sub-section (*1*) shall, within the limits of the area specified to be within his jurisdiction, exercise such powers as may be conferred and perform such duties as may be imposed on him by or under this Act.

4. (*1*) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act. Tribunal.

(*2*) The Tribunal shall consist of not more than three persons possessing such qualifications as may be prescribed.

(*3*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.

(4) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(5) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and the disposal of its business.

(6) The regulations made under sub-section (5) shall be published in the *Official Gazette*.

CHAPTER III.

General Tax.

General Tax:

5. (1) Subject to the provisions of section 8, every dealer—

(a) whose turnover in respect of all sales made within the State of Bombay during any of the three consecutive years immediately preceding the first day of April 1952, has exceeded Rs. 30,000, or

(b) whose turnover in respect of such sales exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay the general tax at the rate specified in sub-section (1) of section 6 on his turnover in respect of sales of goods made on or after the appointed day :

Provided that a dealer to whom clause (a) does not apply but clause (b) applies shall not be liable to pay the general tax in respect of his turnover upto Rs. 30,000, as computed from the first day of April 1952.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay the general tax from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay, exceeds the limit specified in the said sub-section :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover upto the limit specified in sub-section (1).

(3) Every dealer who has become liable to pay the general tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales made within the State of Bombay has failed to exceed the limit specified in sub-section (1) ; and such further period after the date of such expiry as may be prescribed and on the expiry of the latter period his liability to pay the general tax shall cease.

(4) Every dealer whose liability to pay the general tax has ceased under the provisions of sub-section (3) shall again be liable to pay the said tax with effect from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay again exceeds the limits specified in sub-section (1) :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover upto the limit specified in sub-section (1).

Levy and rate of general tax.

6. (1) The general tax payable by a dealer shall be levied at the rate of three pies in the rupee on his taxable turnover in respect of sales of goods :

Provided that the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer in respect of sales of bullion or specie at the rate of one-fourth per cent.

(2) The Collector may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period a lump sum by way of composition determined in the prescribed manner.

7. The taxable turnover for the purposes of sub-section (*1*) of section 6 shall be determined in the following manner, namely :— Taxable turnover for purpose of general tax.

(i) From the turnover of the dealer in respect of all his sales of goods during any period of his liability to pay the general tax, there shall first be deducted his turnover during that period in respect of—

(*a*) sales of any goods declared from time to time as tax free under section 8, and

(*b*) such other sales as may be prescribed.

(ii) From that part of the balance remaining after making deductions under clause (i) which is in respect of sales of goods other than bullion and specie, there shall be deducted one-sixty-fifth part of such balance.

(iii) The balance remaining after making deductions under clauses (i) and (ii) shall be the taxable turnover for the purposes of sub-section (*1*) of section 6.

8. (*1*) No general tax shall be payable on the sales of goods specified in column 1 of Schedule I subject to the conditions and exceptions, if any, set out in the corresponding entry in column 2 thereof. Goods free from general tax.

(*2*) The State Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification make additions, variations or omissions to or in the said Schedule or add to, vary or omit any of the conditions or exceptions, specified in the said Schedule, and thereupon the said Schedule shall be deemed to have been amended accordingly.

9. (*1*) No dealer shall, while being liable to pay the general tax, carry on business as a dealer unless he has applied for registration within such period as may be prescribed : Registration of dealers.

Provided that for the purposes of this sub-section the turnover shall be calculated without making the deductions referred to in section 7.

(*2*) Every dealer required by sub-section (*1*) to apply for registration shall make an application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(*4*) The prescribed authority may, from time to time, amend any certificate of registration after considering the information furnished under section 27 or otherwise received.

(*5*) When any dealer has been convicted or has paid composition money under section 42 in respect of any contravention of sub-section (*7*), the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (*3*) on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of three consecutive years failed to exceed the limit specified in sub-section (*1*) of section 5 and the dealer has applied in the prescribed manner for cancellation of his registration,

the prescribed authority shall cancel the registration with effect from the prescribed date.

(*7*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force, immediately prior to the appointed day and to whom sub-section (*1*) Bom. V of 1946.

of section 5 applies, shall notwithstanding anything contained in sub-section (*2*) be deemed to be duly registered under sub-section (*3*).

(*8*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force immediately prior to the appointed day and to whom sub-section (*1*) of section 5 does not apply, shall apply in the prescribed manner to the prescribed authority for cancellation of his registration, and the said authority shall cancel his registration with effect from the prescribed date. Bom. V of 1946

Liability of certain dealers to pay tax on goods remaining unsold.

10. Every dealer who was liable to pay tax under the Bombay Sales Tax Act, 1946, immediately prior to the appointed day, shall be liable to pay an additional tax on the value of the goods (other than the goods specified in Schedule I or II of this Act or Schedule II of the Bombay Sales Tax Act, 1946, and bullion and specie) remaining unsold with him immediately prior to the appointed day as follows— Bom. V of 1946. Bom. V of 1946.

(*a*) In the case of a dealer to whom sub-section (*1*) of section 5 does not apply.	At the rate of six pies in the rupee.
(*b*) In the case of a dealer to whom sub-section (*1*) of section 5 applies.	At the rate of three pies in the rupee.

CHAPTER IV.

Special Tax.

Incidence and rate of special tax.

11. (*1*) Every dealer whose turnover in respect of all sales of special goods made within the State of Bombay—

(*a*) has exceeded Rs. 1,000 during the year ended on the thirty-first day of March 1952, or

(*b*) exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay a special tax at the rate specified against them in column 2 of Schedule II on his taxable turnover in respect of sales of special goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply, but clause (*b*) applies shall not be liable to pay the special tax in respect of such turnover upto Rs. 1,000 as computed from the first day of April 1952.

(*2*) The special tax payable by a dealer under this section shall be paid in addition to the general tax, if any, payable by such dealer under section 5.

(*3*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the special tax under this section with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*4*) Every dealer who has become liable to pay the special tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales of special goods made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the special tax shall cease.

(*5*) Every dealer whose liability to pay the special tax has ceased under the provisions of sub-section (*4*) shall again be liable to pay the special tax with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay again exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax under this section during such year in respect of such turnover up to the limit specified in sub-section (*1*).

12. The taxable turnover for the purposes of sub-section (*1*) of section 11 shall be determined in the following manner, namely :— Taxable turnover for purposes of special tax.

(*i*) From the turnover of the dealer in respect of all his sales of special goods during any period of his liability to pay the special tax, there shall first be deducted his turnover in respect of—

(*a*) sales of special goods purchased by him on or after the appointed day at a place in the State of Bombay from a dealer holding a licence under section 13, provided that such goods have not been processed or altered by him in any manner ;

(*b*) such other sales as may be prescribed.

Explanation.—If a dealer liable to pay the special tax transfers the ownership of the whole or any part of his business, the stock of goods transferred along with such business shall not for the purposes of clause (*a*) be deemed to be purchased by the transferee.

(*ii*) From the balance remaining after making deductions under clause (i), there shall be deducted such part of the balance as is specified in column 3 of Schedule II against each of the special goods and the remainder shall be the taxable turnover for the purposes of sub-section (*1*).

13. (*1*) No dealer shall, while being liable to pay the special tax carry on business as such dealer unless he has applied for a licence within such period as may be prescribed : Dealer to obtain licence.

Provided that for the purposes of this sub-section the turnover in respect of all sales of special goods made within the State of Bombay shall be calculated without making the deductions referred to in section 12.

(*2*) Every dealer required by sub-section (*1*) to apply for a licence shall make an application in that behalf to the prescribed authority in the prescribed manner.

(*3*) If the prescribed authority is satisfied that an application for licence is in order, it shall grant a licence to the applicant in such form and for such period and subject to such conditions as may be prescribed.

(*4*) Any licence granted under sub-section (*3*) shall from time to time be renewable in the prescribed manner for such period as may be prescribed.

(*5*) A licence under this section shall be granted or renewed on payment of such fee not exceeding Rs. 5 as may be prescribed.

(*6*) When—

(*a*) any business in respect of which a licence has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of the three consecutive years failed to exceed Rs. 1,000 and the licensed dealer has applied in the prescribed manner for cancellation of his licence,

the prescribed authority shall cancel the licence with effect from the prescribed date.

14. Every dealer to whom sub-section (*1*) of section 11 does not apply and who was liable to pay the tax under the Bombay Sales Tax Act, 1946, immediately prior to the appointed day, shall be liable to pay the special tax at the rate specified in sub-section (*1*) of section 11 on the value of the special goods remaining unsold with him immediately prior to the appointed day. Liability of certain dealers to pay special tax on goods purchased

Bom. V of 1946.

CHAPTER V.

Returns, assessment, payment, recovery and refund of the tax and levy of tax on purchases.

Returns.

15. (*1*) Every registered dealer and every licensed dealer and every other dealer as may be required so to do by the Collector by notice served in the prescribed manner shall furnish such returns by such dates and to such authority as may be prescribed :

Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section. to furnish them for such different periods as he may direct.

(*2*) If any dealer having furnished returns under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return before the expiry of three months next following the period to which such return relates.

Assessment of taxes.

16. (*1*) The amount of the tax due from a registered or a licensed dealer shall be assessed separately for each year during which he is liable to pay the tax :

Provided that when a dealer has failed to furnish any return relating to any period in a year by the prescribed date, the Collector may if he thinks fit, assess the tax due from such dealer separately for different parts of such year :

Provided further that the Collector may subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

(*2*) If the Collector is satisfied without requiring the presence of a dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of the tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns or such other evidence as may be specified in such notice.

(*b*) On the date specified in the notice or as soon afterwards as may be, the Collector shall, after considering such evidence as the dealer may produce and such other evidence as the Collector may require on specified points assess the amount of the tax due from the dealer.

(*4*) If a dealer having furnished returns in respect of a period fails to comply with the terms of the notice issued under sub-section (*2*), the Collector shall assess, to the best of his judgment, the amount of the tax due from the dealer.

(*5*) If a dealer does not furnish returns in respect of any period by the prescribed date, the Collector shall after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment, the amount of the tax, if any, due from the dealer.

(*6*) If upon information which has come into his possession, the Collector is satisfied that any dealer has been liable to pay the tax in respect of any period but has failed to apply for registration or licence, the Collector shall, after giving the

dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration or for the grant of a licence, the Collector may direct the dealer to pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment

17. If in consequence of any information which has come into his possession the Collector is satisfied that any turnover in respect of sales of any goods chargeable to the tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom, the Collector may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or has knowingly furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (3) of section 16 and may proceed to assess or re-assess the amount of the tax due from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section :

Provided that the amount of the tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be :

Provided further that where in respect of such turnover or deduction, as the case may be, an order has already been passed under section 33 or section 34, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

Payment and recovery of tax.

18. (1) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered or licensed dealer furnishes the returns required by sub-section (1) of section 15, he shall, in the prescribed manner, pay into a Government treasury the full amount of the tax due from him under this Act according to such returns.

(3) Before any registered dealer or licensed dealer furnishes a revised return in accordance with sub-section (2) of section 15 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of the tax.

(4) If the tax payable under this Act is not paid by any dealer within the prescribed time, the dealer shall pay, by way of penalty in addition to the amount of tax a sum equal to three-fourths per cent. of the amount of the tax for every month after the expiry of the prescribed period during which he continues to make default in the payment of the tax.

(5) (i) The amount of tax—

(a) due where the returns are furnished without full payment thereof, or

(b) assessed for any period under section 16 or under section 17 less the sum, if any, already paid by the dealer in respect of such period, or

(ii) the amount of the penalty payable under sub-section (4),

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Collector for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Collector may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(6) Any amount of the tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (5) shall be recoverable as an arrear of land revenue.

Special mode of recovery.

19. (1) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Collector, require—

(a) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (5) of section 18 or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of the tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

(2) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

Purchase tax.

20. (*1*) In the case of such goods, as may be notified by the State Government in the *Official Gazette* from time to time, which have been despatched or brought from any place in India outside the State of Bombay and are delivered as a direct result of a sale to a buyer in the State of Bombay for consumption therein, the buyer shall be liable to pay the tax on the purchase of such goods at the rate of three pies in the rupee and if such goods are special goods he shall also be liable to pay an additional tax at the rate specified in column 2 of Schedule II, unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer or a licensed dealer, as the case may be, and shall pay the tax on such sale in due course.

(*2*) Every buyer to whom sub-section (*1*) applies, shall furnish the prescribed authority with a statement in the prescribed form within the prescribed time regarding such purchases by him and shall also pay the tax in the prescribed manner, or produce a declaration of the seller, if any.

(*3*) The provisions of sub-sections (*5*) and (*6*) of section 18, and the provisions of section 19 shall apply to any amount of the tax payable under this section.

Refunds.

21. The Collector shall, in the prescribed manner, refund to a registered dealer or licensed dealer applying in this behalf any amount of the tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer by deduction of such excess from the amount of the tax due in respect of any other period :

Provided that no claim to refund of the tax paid under this Act shall be allowed unless it is made within 24 months from the date on which the order of assessment was passed or within 12 months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later :

Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (*5*) of section 18 may have been issued and shall then refund the balance remaining, if any.

Remission of taxes.

22. The Collector may, subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable under this Act in respect of any period by any registered or licensed dealer who has suffered financially on account of riots or through natural calamities :

Provided that if the amount to be remitted exceeds Rs. 5,000 the remission shall not be made without the previous sanction of the State Government.

Prohibition against collection of tax in certain cases.

23. (*1*) No person shall collect any amount by way of general tax under this Act in respect of sales of any goods which are declared, from time to time, under section 8 as sales on which such tax is not payable.

(*2*) No person selling any goods shall collect from the purchaser any amount by way of the tax unless he is a registered dealer or a licensed dealer and is liable to pay the tax under this Act in respect of such sale :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose turnover in respect of all sales made within the State of Bombay exceeds Rs. 60,000 in a year shall issue a bill or cash memorandum in respect of all goods sold by him, and every licensed dealer shall issue a bill

or cash memorandum in respect of any special goods sold by him, signed and dated by him or his servant, manager or agent, to the purchaser in respect of the goods sold by him showing the particulars of the goods and the price at which the goods are sold and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than two years from such date.

(*4*) If any person collects any amount by way of the tax in contravention of the provisions of sub-section (*1*) or (*2*) or if any registered dealer or licensed dealer collects any amount by way of the tax in excess of the amount payable by him under this Act, the amounts so collected shall, without prejudice to any prosecution that may be instituted against such person or dealer for any offence under this Act, be forfeited to the State Government and such person or dealer, as the case may be, shall, within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.

(*5*) If any person to whom sub-section (*3*) applies contravenes the provisions of the said sub-section, then without prejudice to any prosecution that may be instituted against such person, he shall be liable to a fine equal to double the amount of the bill or cash memorandum in respect of which such contravention has occurred or Rs. 100, whichever is less.

CHAPTER VI.

Liability to produce accounts, to supply information and to pay the tax in the case of transfer of business, and cancellation of certificate of registration or licence.

Accounts.

24. (*1*) Every registered dealer and every licensed dealer or any person liable to pay the tax under this Act and every other dealer who is required so to do by the Collector by notice served in the prescribed manner shall keep a true account of the value of the goods bought and sold by him, and if the Collector considers that such account is not sufficiently clear and intelligible to determine whether or not such dealer or any person is liable to pay the tax during any period under this Act, or to make a proper scrutiny of the returns or statements furnished by him, the Collector may require such dealer or person by notice in writing to keep such accounts (including records of sales or purchases) necessary for the purposes of proper assessment as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(*2*) The Collector may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

Production and inspection of accounts and documents, and search of premises.

25. (*1*) The Collector may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer or any other information, relating to his business as may be necessary for the purposes of this Act.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Collector and the Collector may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(*3*) If the Collector has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*), the Collector may enter and search any place of business or warehouse of any dealer or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business.

(*5*) The provisions of sub-sections (*1*) to (*4*) shall also apply *mutatis mutandis* in the case of persons liable to pay the tax under section 20.

Dealer to declare the name of manager of his business.

26. Every dealer, who is liable to pay the tax under this Act and who is an undivided Hindu family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

Information to be furnished regarding changes of business.

27. If any dealer to whom the provisions of this Act apply—

(*a*) sells or otherwise disposes of his business or any part of his business, or effects or comes to know of any other change in the ownership of the business, or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods sold by him,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business

28. (*1*) When the ownership of the business of a dealer liable to pay the tax under this Act is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee, as if he were the dealer liable to pay such tax; and the transferee shall also be liable to pay tax under this Act on the sales of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration or licence, as the case may be, unless he already holds a certificate of registration or a licence, as the case may be.

(*2*) When a dealer liable to pay the tax under this Act transfers the ownership of a part of his business the transferor shall be liable to pay the tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods have been sold by him, unless the transferee holds a certificate of registration or licence, as the case may be, or obtains it within the prescribed period.

(*3*) (*i*) When a firm liable to pay the tax under this Act is dissolved each of such partners thereof shall, or

(*ii*) where an undivided Hindu family liable to pay the tax under this Act is partitioned each of the members thereof shall,

unless he holds a certificate of registration or a licence or obtains it within the prescribed period, be liable to pay the tax under this Act on the proportion of the stock of goods remaining unsold equal to his share or interest in the firm or family, as the case may be.

(4) When a dealer to whom a part of the business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, or an undivided Hindu family which is partitioned, obtains a certificate of registration or a licence, as the case may be, he shall be liable to pay the tax on the turnover in respect of sales of goods made by him with effect from the date of such transfer of business, discontinuance or dissolution of the partnership, or the partition of the family, as the case may be.

Liability to tax on cancellation of certificate or licence.

29. When a certificate of registration or a licence is cancelled under section 9 or section 14, as the case may be, in any case other than that of a dissolution of a firm, or partition of an undivided Hindu family or entire transfer of the business of a dealer, the dealer shall be liable to pay the tax on the value of his stock of goods remaining unsold on the date with effect from which the certificate or licence is cancelled, provided that no special tax shall be payable under this section on the value of goods specified in sub-clause (*a*) of clause (*i*) of section 12.

CHAPTER VII.

Proceedings.

Power of Collector to determine disputes.

30. If any question arises otherwise than in a proceeding before a court whether or not, for the purposes of this Act,—

(*a*) any person, society, club or association, firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale, or

(*c*) any particular dealer is liable to registration or required to take a licence, or

(*d*) any tax is payable in respect of any particular sale,

the Collector shall make an order determining such question:

Provided that the Collector may in any such order direct that any such determination shall not affect the liability of any dealer under this Act in respect of any sale effected prior to the date of any such determination:

Provided further that if any such question arises from any order already passed under this Act, no proceeding shall be entertained for the determination under this section, but such question may be raised in any appeal or application for revision against such order, which lies under section 33 or 34.

Powers of Tribunal and Collector.

31. For the purposes of this Act,—

(*1*) the Tribunal and the Collector shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits;

(*b*) summoning and enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of documents; and

(*d*) issuing commissions for the examination of witnesses;

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Collector may administer the oath to the deponent.

Bar to certain proceedings.

32. Save as is provided by section 37, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided by sections 33 and 34 no appeal or application for revision shall lie against any such assessment or order.

Appeal.

33. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any person may in the prescribed manner, appeal to the prescribed authority against such assessment or other order:

Provided that no appeal against an order of assessment, with or without penalty shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of the tax including penalty, if any, or on proof of payment of such smaller amount as it may direct.

(*2*) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think fit.

(*3*) Every order passed in appeal under this section shall subject to the provisions of sections 31, 37 and 38, be final.

Revision.

34. (*1*) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(*2*) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(*3*) Where a person could have appealed under section 33, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

35. In computing the period laid down under sections 33 and 34 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.

IX of 1908.

Extension of period of limitation in certain cases

36. The prescribed authority may admit any appeal under section 33 and the Collector and the Tribunal may admit an application under section 34, after the period of limitation laid down in the said sections if the appellant or the applicant, as the case may be, satisfies the prescribed authority, the Collector or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application within such period.

Statement of case to High Court.

37. (*1*) Within ninety days from the passing by the Tribunal of any order under sub-section (*2*) of section 33 or sub-section (*1*) of section 34 affecting any liability of any dealer to pay tax under this Act, such person or the Collector may, by application in writing accompanied where the application is made by any person (other than the Collector) by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(*2*) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

(*a*) withdraw his application, or

(*b*) apply to the High Court against such refusal

and in the case of withdrawal under clause (*a*), the fee, if any, paid under sub-section (*1*) shall be refunded to him.

(*3*) If upon the receipt of an application under clause (*b*) of sub-section (*2*), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(*4*) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(*5*) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(*6*) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (*1*)) shall be in the discretion of the Court.

(*7*) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (*1*) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 21.

Rectification of mistakes.

38. (*1*) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer :

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Collector has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(*2*) The provisions of sub-section (*1*) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under section 33 as they apply to the rectification of a mistake by the Collector.

(*3*) Where any such rectification has the effect of reducing the amount of the tax, the Collector shall in the prescribed manner refund any amount due to the dealer.

(*4*) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Collector shall recover the amount due from the dealer in the manner provided for in section 18.

Chapter VIII.

Offences and Penalties.

Offences and Penalties.

39. (*1*) Whoever—

(*a*) carries on business as a dealer without applying for registration or licence in contravention of section 9, 13 or 28, or

(*b*) fails without sufficient cause, to furnish any return or statement as required by section 15 or 20 or knowingly furnishes a false return or statement ; or

(*c*) not being a licensed dealer under section 13 falsely represents that he has been or was a licensed dealer at the time when he sells or sold any special goods; or

(*d*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 23; or

(*e*) fails, to keep a true account of the value of the goods bought and sold by him as required by section 24, or fails, when directed so to do under that section to keep any accounts or records in accordance with the direction; or

(*f*) fails to comply with any requirement made of him under section 25; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 25; or

(*i*) neglects to furnish any information required by section 27; or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*) of this sub-section;

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

Cognizance of offences.

40. (*1*) No court shall take cognizance of any offence punishable under section 39 or under any rules made under this Act, except with the previous sanction of the Collector and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, V of 1898. 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

Investigation of offences.

41. (*1*) Subject to such conditions as may be prescribed, the Collector may authorise any persons appointed under section 3 to assist him, to investigate all offences punishable under this Act.

(*2*) Every person so authorised shall, in the conduct of such investigation, V of 1898. exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

Compounding of offences.

42. (*1*) The Collector may, either before or after the institution of proceedings for any offence punishable under section 39 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged is under clause (*a*), (*b*), (*c*), (*e*) or (*g*) of sub-section (*1*) of section 39, not exceeding double the amount of tax which would have been payable on the sale or turnover to which the said offence relates, whichever is greater.

(*2*) On payment of such sum as may be determined by the Collector under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER VIII.

Miscellaneous.

Persons appointed under section 3 and members of Tribunal to be public servants.

43. All persons appointed under section 3 and all members of the Tribunal XLV of 1860. shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Indemnity.

44. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

45. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*), (*a*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purpose of the said Act, or (*c*) to any authority acting in exercise of the powers conferred on it by any law of a State imposing a tax on the sale or purchase of goods where it is necessary to disclose the same to such authority for the purposes of the said law. XLV of 1860. XI of 1922.

Appearance before any authority in proceedings.

46. Any person, who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

Delegation of Powers and duties and transfer of proceedings.

47. (*1*) Subject to such conditions and restrictions as the State Government may, by general or special order impose, the Collector may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

(*2*) The Collector may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person to whom he has delegated his powers and duties in respect thereof, and he may likewise transfer any such proceeding (including a proceeding already transferred under this sub-section) from one such person to another to whom the said powers and duties have been delegated or to himself.

Power to make rules.

48. (*1*) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(*a*) the period for return of goods under clause (21) of section 2;

(*b*) the qualifications to be possessed by a member of the Tribunal;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 and sub-section (*4*) of section 11 ;

(*d*) the circumstances in which and the conditions subject to which the Collector may accept a lump sum by way of composition under sub-section (*2*) of section 6 ; and the manner of determining such sum ;

(*e*) the other sales, turnover in respect of which may be deducted from a dealer's turnover in computing his taxable turnover as defined in section 7 and in section 12 ;

(*f*) the period within which, the manner in which and the authority to which application for registration shall be made under section 9 ;

(*g*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-sections (*6*) and (*8*) of that section ;

(*h*) the period within which, the manner in which and the authority to which an application for licence shall be made under section 13 ;

(*i*) the form of licence under section 13 and the period for which and the conditions subject to which a licence shall be granted ;

(*j*) the manner in which and the period for which a licence shall be renewed under section 13 and the fee for grant or renewal of a licence and the manner in which an application for cancellation of a licence shall be made and the date from which cancellation of licence shall take effect under sub-section (*6*) of that section ;

(*k*) the returns to be furnished under section 15 and the dates by which, and the authority to which, such returns shall be furnished and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 15 ;

(*l*) procedure to be followed for assessment under section 16 ;

(*m*) the intervals at which, and the manner in which, the tax shall be payable under section 18 ;

(*n*) the forms of certificate and statement, the manner in which, the authority to which and the period within which such certificate and statement shall be submitted under section 20 ;

(*o*) the manner in which refunds under section 21 shall be made ;

(*p*) conditions subject to which tax may be remitted under section 22 ;

(*q*) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (*4*) of section 23 ;

(*r*) the accounts and forms thereof required by the Collector to be kept under sub-section (*1*) of section 24 and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (*2*) of the said section 24 ;

(*s*) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 25 ;

(*t*) the period within which, the authority to which and the manner in which a declaration shall be sent under section 26 ;

(*u*) the authority to which, and the time within which, information shall be furnished under section 27 ;

(*v*) the period within which a certificate of registration or licence shall be obtained under sub-section (*2*) or sub-section (*3*) of section 28 ;

(*w*) the manner in which, and the authority to which, an appeal against any order, under this Act may be preferred under section 33 ;

(*x*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 33 and 34 ;

(*y*) the conditions and the qualifications for the purposes of clause (*c*) of section 46;

(*z*) the manner in which, and the time within which, the applications shall be made, information furnished and notices served, under this Act;

(*za*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Modification in application of Act to district of Amreli.

49. In the application of this Act to the district of Amreli, the foregoing provisions shall be construed subject to the following modifications, namely :—

(*1*) in Schedule I, after entry No. 37, the following shall be added, namely :—

"38. Cloth manufactured in mills or on powerlooms,—

(*i*) made out of cotton yarn only, or

(*ii*) sold at a rate not exceeding rupees two per yard.

39. Sugar.

40. The grocery articles (*Kariana*) which the State Government may, by a notification in the *Official Gazette*, specify.

41. Oil of sesame (*tal*), safflower (*kardi*) and groundnut, when sold without being hydrogenated.

42. Domestic utensils of brass, copper and aluminium.";

(*2*) in Schedule II, the following items shall be deleted, namely :—

"(*i*) Articles (including rubber and other tyres, and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*;

(*ii*) All clocks, time-pieces and watches and parts thereof."

Repeal.

50. (*1*) The Bombay Sales Tax Act, 1946, and in the Third Schedule to the Bombay Merged States (Laws) Act, 1950, all the entries relating to the Bombay Sales Tax Act, 1946, are repealed with effect from the appointed day. Bom. V of 1946. Bom. IV of 1950.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect — Bom. V of 1946.

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the appointed day;

(*ii*) any legal proceeding or remedy pending in respect of any right, title, interest, obligation or liability or anything done or suffered before the appointed day and any such proceeding shall be continued and disposed of, as if this Act had not been passed;

(*iii*) the recovery of any tax or penalty which may have become payable under any of the Acts so repealed before the appointed day and all such taxes or penalties or arrears thereof shall be recovered, as the case may be, as if this Act had not been passed.

(*3*) Any appointment, notification, notice, order, rule, regulation or form made or issued under any of the enactments hereby repealed shall continue in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, regulation or form is not inconsistent with the provisions of this Act, unless and until it is superseded by an appointment, a notification, notice, order, rule, regulation or form made or issued under this Act.

(*4*) Any reference to the Bombay Sales Tax Act, 1946, contained in the Bombay Sales of Motor Spirit Taxation Act, 1946, shall, with effect from the appointed day, be deemed to be a reference to this Act. Bom. V of 1946. Bom. VI of 1946.

SCHEDULE I.

(*See* SECTION 8.)

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	All cereals and pulses including all forms of rice ...	Except when sold in sealed containers.
2	Betel leaves.	
3	Petelnuts.	
4	Bread.	
5	Butter-milk and curds.	
6	Cattle, sheep and goats.	
7	Cattle-feed including fodder, cotton seed and other concentrates.	
8	*Charkha* and other implements used in the production of handspun yarn or handwoven cloth as may be specified by the State Government by notification in the *Official Gazette*.	
9	Cloth woven on handlooms out of mill or handspun cotton yarn and sold at a rate not exceeding Rs. 1-8-0 per yard.	
10	Cotton (whether ginned or unginned).	
11	Cotton yarn.	
12	Edible oils manufactured in *ghanis* by human or animal agency.	When sold by such owners of *ghanis* as have been recognised for this purpose by the Collector of Sales Tax.
13	Electrical energy.	
14	Fertilizers.	
15	Firewood and charcoal.	
16	Fish	Except when sold in sealed containers.
17	Flour including *atta*, *maida*, *suji* and bran	Do. Do.
18	Food and non-alcoholic drinks consumed at a hotel, restaurant, refreshment room, eating house or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time exceeds Rupee one.
19	Fresh eggs.	
20	Fresh fruits.	
21	Fresh milk.	
22	Fresh vegetables.	
23	Gur.	
24	Kerosene.	

SCHEDULE I—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
25	*Khaddar* and clothes and other articles of *khaddar* ...	When sold by dealers recognised for this purpose by the Collector of Sales Tax.
26	Manures including oilcakes.	
27	Matches.	
28	Meat	Except when sold in sealed containers.
29	Motor spirit, meaning— (*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and (*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid; but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf.	
30	Pepper, tamarind, chillies, chilly-powder and turmeric powder.	
31	Quinine.	
32	Salt.	
33	Slates and slate pencils; chalk-sticks and crayons; foot-rules and drawing books.	
34	Stamp paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
35	Text books sanctioned by the State Government, the Director of Education for the State of Bombay, or the Educational Inspectors of Divisions or approved by the Bombay Municipal Schools Committee.	
36	Tobacco in any form whether manufactured or not.	
37	Water other than aerated and mineral waters.	

SCHEDULE II.

(*See* SECTION 11.)

	Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 12.
	1	2	3
1.	All arms including rifles, revolvers, pistols and ammunition for the same.	One anna in the rupee.	1/17th part.
2.	Cinematographic equipment including cameras, projectors, enlargers and sound recording and reproducing equipment; lenses and other parts of and accessories to such equipment, and films, plates, paper and cloth required for use therewith.	Do.	Do.
3.	Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.	Do.	Do.
4.	Foreign liquor as defined in clause (17) of section 2 of the Bombay Prohibition Act, 1949, read with the proviso thereto.	Do.	Do.
5.	Iron and steel safes, almirahs and furniture ..	Do.	Do.
6.	(*i*) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries. (*ii*) Chasis of Motor vehicles. (*iii*) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
7.	Refrigerators and air-conditioning plants and parts thereof, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
8.	Sound-transmitting equipment including telephones and loud speakers.	Do.	Do.
9.	Tabulating, calculating, cash registering, indexing, cardpunching, franking and addressing machines and Adrema machines.	Do.	Do.
10.	Typewriters and duplicating and ronco machines and parts and accessories thereof.	Do.	Do.
11.	Upholstered furniture	Do.	Do.
12.	Wireless reception instruments and apparatus and radio gramophones and component parts thereof including all electrical valves, accumulators, amplifiers, loud speakers.	Do.	Do.
13.	All clocks, time-pieces and watches and parts thereof.	Nine pies in the rupee.	3/67th part.
14.	All fabrics and articles for personal wear in which the combined weight of silk and synthetic fibre used is more than 50 per cent.	Do.	Do.
15.	All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered and goods made from such fabrics and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.	Do.	Do.
16.	All kinds of hydrogenated edible oils ..	Do.	Do.

SCHEDULE II—*contd.*

	Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 12.
	1	2	3
17.	Articles made of ivory, sandalwood or blackwood or inlaid therewith; ornamental metalware with enamelled or carved designs; and gold and silver filigree.	Nine pies in the rupee.	3/67th part.
18.	Binoculars and opera glasses	Do.	Do.
19.	Cigarette cases and lighters	Do.	Do.
20.	Cloth of any kind sold at a rate not less than Rs. 3 per yard.	Do.	Do.
21.	Domestic electrical appliances other than torches, torch cells, filament, lighting bulbs and fans.	Do.	Do.
22.	Fireworks	Do.	Do.
23.	Fountain pens, stylograph pens and propelling pencils.	Do.	Do.
24.	Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.	Do.	Do.
25.	Glassware, chinaware and domestic pottery but excluding such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
26.	Gramophones and component parts thereof and records.	Do.	Do.
27.	Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial and cultured.	Do.	Do.
28.	Ladies' handbags and vanity bags	Do.	Do.
29.	Leather suit cases	Do.	Do.
30.	Musical instruments	Do.	Do.
31.	Perfumery (excluding synthetic essential oils), cosmetic and toilet articles, except soaps and other articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
32.	Photographic and other cameras and enlargers, lenses, and other parts of and accessories to such cameras and enlargers and films, plates, paper and cloth required for use therewith.	Do.	Do.
33.	Pile carpets	Do.	Do.
34.	Plastic sheets, fabrics and articles made of plastic.	Do.	Do.
35.	Playing cards.	Do.	Do.
36.	Shoes and footwear sold at a rate not less than rupees fifteen per pair.	Do.	Do.
37.	Silk cloth and goods made from such cloth (excluding gas mantles).	Do.	Do.
38.	Stainless steel sheets and articles made of stainless steel.	Do.	Do.
39.	Table cutlery, including knives, forks and spoons.	Do.	Do.
40.	Woollen goods	Do.	Do.
41.	Cotton (whether ginned or unginned)	One per cent.	Nil.
42.	Cotton seed	Do.	Do.

STATEMENT OF OBJECTS AND REASONS.

Under the present Bombay Sales Tax Act, the tax is levied at a single-point at the last stage of sales in the series of transactions which bring the goods into the hands of the consumer. Government has reviewed the working of this system and has found that in spite of the various modifications made from time to time in the present Act, there is considerable leakage of revenue. Government considers that the most effective method of reducing the leakage of revenue, which is detrimental both to the interests of public revenue and of the honest tax-payer, is to change over the present system of tax from the single-point to the multi-point. The latter system has been in force in the State of Madras for a number of years and is in force in many other States also. It is proposed to fix the rate of tax under the multi-point system at such a rate as not to impose any substantial additional burden on the consumers. Instead of levying the tax at half an anna in the rupee on the last sales, it is now proposed to levy a general tax at each stage of sale at three pies in the rupee. Certain goods which are now taxed at one anna at the last stage, will, however, be made liable to an additional tax of nine pies in the rupee (at one anna in some cases), at the first point of sale. An entirely new Bill is accordingly presented incorporating the above and certain other proposals explained in the notes below.

Notes on Clauses.

Clause 2.—This incorporates the definitions. In most cases, they follow the definitions in the old Act. A few additions and modifications have, however, been made to meet the requirements of the new Bill. The important ones are : the definition of dealer which now excludes an agriculturist selling his own produce ; the definitions of "buy" and "purchase" which have become necessary as the tax is levied, in certain cases e.g., under clause 10, and under clause 20, on purchases.

Clauses 3 and 4.—These incorporate sections 3 and 4 of the present Act, and provide for the appointment of Sales Tax Authorities and for the constitution of the Sales Tax Tribunal.

Clause 5.—This specifies the liability of dealers to the general tax.

Clauses 6 to 9.—These incorporate similar provisions from the old Act with suitable changes and provide for the levy of the general tax at 3 pies in the rupee, for determination of the taxable turnover, and for the exemption of certain articles specified in Schedule I from the levy of general tax, and for the registration of dealers liable to tax.

Clause 10.—This is intended to equalise the incidence of tax on stocks purchased by the dealers tax free under the old Act and remaining unsold on the day appointed for bringing the tax into effect.

Clause 11.—This provides for the determination of the liability of dealers to the special tax levied on articles specified in Schedule II, and for the levy thereof at the rates specified in that Schedule.

Clauses 12 and 13.—These provide for the determination of the taxable turnover and for the licensing of dealers liable to the special tax in order to facilitate the collection of that tax.

Clause 14.—This corresponds to clause 10.

Clauses 15 to 19.—These incorporate similar provisions from the old Act and provide for the submission of returns by dealers liable to tax, for their assessment to tax, for assessing turnover of any dealer that has escaped assessment, and for the payment and recovery of tax.

Clause 20.—This is a new provision specially incorporated to prevent the avoidance of tax through a manipulation of sales. Some dealers take wrong advantage of the provisions of Article 286 of the Constitution. They sell or show as having sold, their goods to dealers outside this State while these dealers sell back or show as having sold back, the same goods to consumers in this State. By this method they escape taxation in both the States and carry on unfair competition with honest dealers. Sometimes, the goods do not even leave this State and the manipulations are carried out only in the books of the two dealers by mutual consent. To prevent these malpractices and safeguard public revenues, this clause provides that the tax should be paid by the purchaser of such goods unless he satisfies the Sales Tax authorities that the dealer from whom he has purchased, has already paid or will pay the tax. It is proposed to apply this clause to only such goods in respect of which the malpractices described above, have become very common.

Clauses 21 and 22.—Clause 21 incorporates similar provisions of the old Act and provides for refunds or adjustments of amounts paid in excess, while clause 22, which is new, provides for remission of tax in the case of dealers who have suffered financially through natural calamities like floods, earthquake, etc. or through riots.

Clause 23.—This is based on a similar section in the old Act, and prohibits the collection of amount by dealers by way of tax on exempted goods or by dealers who are themselves not liable to pay the tax under this Bill. Sub-clause (3) provides that every dealer whose total annual turnover is more than Rs. 60,000 must issue a bill or cash memorandum in respect of all goods sold by him. This is intended to prevent evasion of tax by the dealers by omitting to issue bills or cash memo and thereby suppressing their sales. Sub-clause (4) provides penalties for contravention of sub-clauses (1) and (2). A new sub-clause has been added to levy in addition to any prosecution that may be launched, a penalty limited to Rs. 100 in the case of each offence in respect of dealers who fail to issue a bill or a cash memo.

Clauses 24 to 29.—These incorporate similar provisions from the old Act and provide for the liability of dealers for production of accounts, for supplying the required information to the Sales Tax authorities and for paying the tax in the case of transfer of business and cancellation of registration and licence.

Clauses 30 to 37.—These also incorporate similar provisions from the old Act and relate to the determination of any questions arising in the working of the Act and to the proceedings before the Collector, the Tribunal and the High Court. They also lay down the procedure regarding the revision and appeals, and the extension of the period of limitation in certain cases.

Clause 38.—This clause also incorporates similar provision from the old Act and empowers the Collector and the Tribunal to rectify mistakes, subject to certain conditions, in the orders passed by them.

Clauses 39 to 42.—These relate to offences and penalties and the compounding of offences in certain cases. They follow similar provisions in the old Act.

Clauses 43 to 48.—These are miscellaneous provisions all of which are incorporated from similar provisions in the old Act. They provide for the declaration of the Sales Tax authorities and the Tribunal, as public servants for purposes of Indian Penal Code and indemnify Government servants acting under the Act from any proceedings for anything done by them in good faith. Clause 45 provides that all returns, statements and documents, furnished by the dealers to the Sales Tax authorities should be treated as confidential. Exception is, however, made in the case of the income-tax authorities. In their case it is necessary to exchange information, as the income-tax authorities are also permitted to supply information to the sales tax authorities so that a proper enforcement of both the Sales Tax Act and the Income-tax Act is achieved. Clause 46 prescribes the manner in which a person shall appear before any authority in connection with the proceedings under the Bill, while clause 47 provides for the delegation of the powers of the Collector under the Act to his subordinate officers, subject to such conditions and restrictions as Government may impose. Clause 48 is the usual clause which enables Government to make rules for the purpose of working and enforcing the different provisions of the Bill.

Clause 49.—This clause includes the modifications made in the Bombay Sales Tax Act, 1946, in its application to the Amreli District. As Amreli is surrounded by the territories of the Saurashtra State, and the rate and basis of sales tax in that State differ materially from those prevailing in the State of Bombay, these modifications were made in 1950 with a view to remove the hardships of the dealers in that district. The provisions of this clause incorporate, with slight modification, similar provisions in the old Act in its application to the district of Amreli.

Clause 50.—This provides for the repeal of the Bombay Sales Tax Act, 1946, subject to the usual conditions regarding the continuation of liabilities, rights, obligations etc., arising out of the old Act.

Dated the 14th July 1952. (Signed) JIVRAJ N. MEHTA.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 16th July 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXIX OF 1952.

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

WHEREAS it is expedient to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint :

Provided that in its application to the district of Amreli the provisions thereof shall until the State Government by notification in the *Official Gazette* directs otherwise, be construed subject to the modifications specified in section 46.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "agriculture" with its grammatical variations includes horticulture, the raising of crops, grass or garden produce, and grazing, but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood;

(*2*) "agriculturist" means a person who cultivates land personally;

(*3*) "appointed day" means the day which the State Government may by notification in the *Official Gazette* specify as the appointed day for the purposes of sections 5, 9, 10 and 47 ;

(*4*) " to cultivate " with its grammatical variations and cognate expressions means to carry on any agricultural operation ;

(*5*) " to cultivate personally " means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of one's own family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family ;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour ;

Explanation II.—In the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family ;

(*6*) " Collector " means the Collector of Sales Tax appointed under section 3 ;

(*7*) " dealer " means any person who carries on the business of selling goods in the State of Bombay, whether for commission, remuneration or otherwise and includes a State Government which carries on such business and any society, club or association which sells goods to its members ;

Explanation.—The manager or agent of a dealer who resides outside the State of Bombay and carries on the business of selling goods in the State of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act ;

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause ;

(*8*) " general tax " means the tax leviable under section 5 ;

(*9*) " goods " means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities ;

(*10*) " licensed dealer " means a dealer who holds a licence granted under section 12 ;

(*11*) " prescribed " means prescribed by rules ;

(*12*) " registered dealer " means a dealer registered under section 9 ;

(*13*) " rules " means rules made under this Act ;

(*14*) " sale " with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes any supply by a society, a club, or an association to its members on payment of price or on fees or subscription but does not include a mortgage, hypothecation, charge or pledge ; the words " buy " and " purchase " shall be construed accordingly ;

Explanations.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930— III of 1930.

(*1*) an agreement for hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller, pending the payment of the entire amount of the price or any part thereof, retains property in the goods as security for the payment of the price, be deemed to be a sale made on the date of such agreement ;

(*2*) the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State, shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State ;

(*15*) "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged ;

(*16*) "Schedule" means a schedule appended to this Act ;

(*17*) "special goods" means goods specified in column 1 of Schedule II ;

(*18*) "special tax" means the tax leviable under section 10 ;

(*19*) "tax" means the general tax, special tax or purchase tax payable under the provisions of this Act ;

(*20*) "Tribunal" means the Tribunal constituted under section 4 ;

(*21*) "turnover" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period ; and

(*22*) "year" means the financial year.

CHAPTER II.

Sales-tax Authorities and Tribunal.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the State Government may appoint any person to be a Collector of Sales Tax, and such other persons to assist him as the State Government thinks fit.

(*2*) A person appointed under sub-section (*1*) shall, within the limits of the area specified to be within his jurisdiction, exercise such powers as may be conferred and perform such duties as may be imposed on him by or under this Act.

Tribunal.

4. (*1*) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act.

(*2*) The Tribunal shall consist of not more than three persons possessing such qualifications as may be prescribed.

(*3*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.

(*4*) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(*5*) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and the disposal of its business.

(*6*) The regulations made under sub-section (*5*) shall be published in the *Official Gazette*.

CHAPTER III.

General Tax.

General Tax.

5. (*1*) Subject to the provisions of section 8, every dealer—

(*a*) whose turnover in respect of all sales made within the State of Bombay during any of the three consecutive years immediately preceding the first day of April 1952, has exceeded Rs. 30,000, or

(*b*) whose turnover in respect of such sales exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay the general tax at the rate specified in sub-section (*1*) of section 6 on his turnover in respect of sales of goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply but clause (*b*) applies shall not be liable to pay the general tax in respect of his turnover up to Rs. 30,000, as computed from the first day of April 1952.

(*2*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the general tax from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay, exceeds the limit specified in the said sub-section :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*3*) Every dealer who has become liable to pay the general tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) ; and such further period after the date of such expiry as may be prescribed and on the expiry of the latter period his liability to pay the general tax shall cease.

(*4*) Every dealer whose liability to pay the general tax has ceased under the provisions of sub-section (*3*) shall again be liable to pay the said tax with effect from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay again exceeds the limits specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*5*) The general tax payable by a dealer under this section shall be in addition to the tax payable on special goods under section 10.

Levy and rate of general tax.

6. (*1*) The general tax payable by a dealer shall be levied at the rate of three pies in the rupee on his taxable turnover in respect of sales of goods :

Provided that the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer in respect of sales of bullion or specie at the rate of one-fourth per cent.

(*2*) The Collector may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period a lump sum by way of composition determined in the prescribed manner.

Taxable turnover for purpose of general tax.

7. The taxable turnover for the purposes of sub-section (*1*) of section 6 shall be determined in the following manner, namely:—

(*i*) From the turnover of the dealer in respect of all his sales of goods during any period of his liability to pay the general tax, there shall first be deducted his turnover during that period in respect of—

(*a*) sales of any goods declared from time to time as tax free under section 8, and

(*b*) such other sales as may be prescribed.

(*ii*) From that part of the balance remaining after making deductions under clause (i) which is in respect of sales of goods other than bullion and specie, there shall be deducted one-sixty-fifth part of such balance.

(*iii*) The balance remaining after making deductions under clauses (*i*) and (*ii*) shall be the taxable turnover for the purposes of sub-section (*1*) of section 6.

Goods free from general tax.

8. (*1*) No general tax shall be payable on the sales of goods specified in column 1 of Schedule I subject to the conditions and exceptions, if any, set out in the corresponding entry in column 2 thereof.

(*2*) The State Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification make additions, variations or omissions to or in the said Schedule or add to, vary or omit any of the conditions or exceptions, specified in the said Schedule, and thereupon the said Schedule shall be deemed to have been amended accordingly.

Registration of dealers.

9. (*1*) No dealer shall, while being liable to pay the general tax, carry on business as a dealer unless he has applied for registration within such period as may be prescribed:

Provided that for the purposes of this sub-section the turnover shall be calculated without making the deductions referred to in section 7.

(*2*) Every dealer required by sub-section (*1*) to apply for registration shall make an application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(*4*) The prescribed authority may, from time to time, amend any certificate of registration after considering the information furnished under section 25 or otherwise received.

(*5*) When any dealer has been convicted under section 36, or has paid composition money under section 39 in respect of any contravention of sub-section (*1*), the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (*3*) on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of three consecutive years failed to exceed the limit specified in sub-section (*1*) of section 5 and the dealer has applied in the prescribed manner for cancellation of his registration,

the prescribed authority shall cancel the registration with effect from the prescribed date.

Bom. V of 1946.

(*7*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force, immediately prior to the appointed day and to whom sub-section (*1*)

of section 5 applies, shall notwithstanding anything contained in sub-section (*2*) be deemed to be duly registered under sub-section (*3*).

(*8*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force immediately prior to the appointed day and to whom sub-section (*1*) of section 5 does not apply, shall apply in the prescribed manner to the prescribed authority for cancellation of his registration, and the said authority shall cancel his registration with effect from the prescribed date. Bom. V of 1946.

CHAPTER IV.

Special Tax.

Incidence and rate of special tax.

10. (*1*) Every dealer whose turnover in respect of all sales within the State of Bombay—

(*a*) has exceeded Rs. 5,000 during the year ended on the thirty-first day of March 1952, or

(*b*) exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay a special tax at the rate specified against them in column 2 of Schedule II on his taxable turnover in respect of sales of special goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply, but clause (*b*) applies shall not be liable to pay the special tax in respect of such turnover upto Rs. 5,000 as computed from the first day of April 1952.

(*2*) The special tax payable by a dealer under this section shall be paid in addition to the general tax, if any, payable by such dealer under section 5.

(*3*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the special tax under this section with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*4*) Every dealer who has become liable to pay the special tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales of special goods made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the special tax shall cease.

(*5*) Every dealer whose liability to pay the special tax has ceased under the provisions of sub-section (*4*) shall again be liable to pay the special tax with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay again exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax under this section during such year in respect of such turnover up to the limit specified in sub-section (*1*).

Taxable turnover for purposes of special tax.

11. The taxable turnover for the purposes of sub-section (*1*) of section 10 shall be determined in the following manner, namely :—

(*i*) From the turnover of the dealer in respect of all his sales of special goods during any period of his liability to pay the special tax, there shall first be deducted his turnover in respect of—

(*a*) sales of special goods purchased by him on or after the appointed day at a place in the State of Bombay from a dealer holding a licence under section 12, provided that such goods have not been processed or altered by him in any manner;

(*b*) such other sales as may be prescribed.

Explanation.—If a dealer liable to pay the special tax transfers the ownership of the whole or any part of his business, the stock of goods transferred along with such business shall not for the purposes of clause (*a*) be deemed to be purchased by the transferee.

(*ii*) From the balance remaining after making deductions under clause (*i*), there shall be deducted such part of the balance as is specified in column 3 of Schedule II against each of the special goods and the remainder shall be the taxable turnover for the purposes of sub-section (*1*).

Dealer to obtain licence.

12. (*1*) No dealer shall, while being liable to pay the special tax, carry on business as such dealer unless he has applied for a licence within such period as may be prescribed :

Provided that for the purposes of this sub-section the turnover in respect of all sales of special goods made within the State of Bombay shall be calculated without making the deductions referred to in section 11.

(*2*) Every dealer required by sub-section (*1*) to apply for a licence shall make an application in that behalf to the prescribed authority in the prescribed manner.

(*3*) If the prescribed authority is satisfied that an application for licence is in order, it shall grant a licence to the applicant in such form and for such period and subject to such conditions as may be prescribed.

(*4*) Any licence granted under sub-section (*3*) shall from time to time be renewable in the prescribed manner for such period as may be prescribed.

(*5*) A licence under this section shall be granted or renewed on payment of such fee not exceeding Rs. 5 as may be prescribed.

(*6*) When—

(*a*) any business in respect of which a licence has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of the three consecutive years failed to exceed Rs. 5,000 and the licensed dealer has applied in the prescribed manner for cancellation of his licence,

the prescribed authority shall cancel the licence with effect from the prescribed date.

Chapter V.

Returns, assessment, payment, recovery and refund of the tax and levy of tax on purchases.

Returns.

13. (*1*) Every registered dealer and every licensed dealer and every other dealer as may be required so to do by the Collector by notice served in the prescribed manner shall furnish such returns by such dates and to such authority as may be prescribed :

Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct.

(*2*) If any dealer having furnished returns under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return before the expiry of three months next following the period to which such return relates.

Assessment of taxes.

14. (*1*) The amount of the tax due from a registered or a licensed dealer shall be assessed separately for each year during which he is liable to pay the tax :

Provided that when a dealer has failed to furnish any return relating to any period in a year by the prescribed date, the Collector may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year :

Provided further that the Collector may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

(*2*) If the Collector is satisfied without requiring the presence of a dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of the tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns or such other evidence as may be specified in such notice.

(*b*) On the date specified in the notice or as soon afterwards as may be, the Collector shall, after considering such evidence as the dealer may produce and such other evidence as the Collector may require on specified points, assess the amount of the tax due from the dealer.

(*4*) If a dealer having furnished returns in respect of a period fails to comply with the terms of the notice issued under sub-section (*3*), the Collector shall assess, to the best of his judgment, the amount of the tax due from the dealer.

(*5*) If a dealer does not furnish returns in respect of any period by the prescribed date, the Collector shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer.

(*6*) If upon information which has come into his possession, the Collector is satisfied that any dealer has been liable to pay the tax in respect of any period but has failed to apply for registration or licence, the Collector shall, after giving the

dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration or for the grant of a licence, the Collector may direct the dealer to pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment.

15. If in consequence of any information which has come into his possession the Collector is satisfied that any turnover in respect of sales of any goods chargeable to the tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom, the Collector may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or has knowingly furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (3) of section 14 and may proceed to assess or re-assess the amount of the tax due from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section :

Provided that the amount of the tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be :

Provided further that where in respect of such turnover or deduction, as the case may be, an order has already been passed under section 30 or section 31, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon, after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

Payment and recovery of tax.

16. (1) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered or licensed dealer furnishes the returns required by sub-section (1) of section 13, he shall, in the prescribed manner, pay into a Government treasury the full amount of the tax due from him under this Act according to such returns.

(3) Before any registered dealer or licensed dealer furnishes a revised return in accordance with sub-section (2) of section 13 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of the tax.

(4) If the tax payable under this Act is not paid by any dealer within the prescribed time, the dealer shall pay, by way of penalty in addition to the amount of tax, a sum equal to three-fourths per cent. of the amount of the tax for every month after the expiry of the prescribed period during which he continues to make default in the payment of the tax.

(5) (*i*) The amount of tax—

(*a*) due where the returns are furnished without full payment thereof, or

(*b*) assessed for any period under section 14 or under section 15 less the sum, if any, already paid by the dealer in respect of such period, or

(*ii*) the amount of the penalty payable under sub-section (*4*),

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Collector for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Collector may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(*6*) Any amount of the tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (*5*) shall be recoverable as an arrear of land revenue.

Special mode of recovery.

17. (*1*) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Collector, require—

(*a*) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (*5*) of section 16 or

(*b*) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of the tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

(*2*) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(*4*) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(*5*) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(*6*) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

Purchase tax.

18. (*1*) In the case of such goods, as may be notified by the State Government in the *Official Gazette* from time to time, which have been despatched or brought from any place in India outside the State of Bombay and are actually delivered as a direct result of a sale to a buyer in the State of Bombay for consumption therein, the buyer shall be liable to pay the tax on the purchase of such goods at the rate of three pies in the rupee and if such goods are special goods he shall also be liable to pay an additional tax at the rate specified in column 2 of Schedule II, unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer or a licensed dealer, as the case may be, and shall pay the tax on such sale in due course.

(*2*) Every buyer to whom sub-section (*1*) applies, shall furnish the prescribed authority with a statement in the prescribed form within the prescribed time regarding such purchases by him and shall also pay the tax in the prescribed manner, or produce a declaration of the seller, if any.

(*3*) The provisions of sub-sections (*5*) and (*6*) of section 16, and the provisions of section 17 shall apply to any amount of the tax payable under this section.

Refunds.

19. The Collector shall, in the prescribed manner, refund to a registered dealer or licensed dealer applying in this behalf any amount of the tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer by deduction of such excess from the amount of the tax due in respect of any other period :

Provided that no claim to refund of the tax paid under this Act shall be allowed unless it is made within 24 months from the date on which the order of assessment was passed or within 12 months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later :

Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (*5*) of section 16 may have been issued and shall then refund the balance remaining, if any.

Remission of taxes.

20. The Collector may, subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable under this Act in respect of any period by any registered or licensed dealer who has suffered financially on account of riots or through natural calamities :

Provided that if the amount to be remitted exceeds Rs. 2,000 the remission shall not be made without the previous sanction of the State Government.

Prohibition against collection of tax in certain cases.

21. (*1*) No person shall collect any amount by way of general tax under this Act in respect of sales of any goods which are declared, from time to time, under section 8 as sales on which such tax is not payable.

(*2*) No person selling any goods shall collect from the purchaser any amount by way of the tax unless he is a registered dealer or a licensed dealer and is liable to pay the tax under this Act in respect of such sale :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose turnover in respect of all sales made within the State of Bombay exceeds Rs. 60,000 in a year shall issue a bill or cash memorandum in respect of all goods sold by him, and every licensed dealer shall issue a bill

or cash memorandum in respect of any special goods sold by him, signed and dated by him or his servant, manager or agent, to the purchaser in respect of the goods sold by him showing the particulars of the goods and the price at which the goods are sold and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years from such date.

(*4*) If any person collects any amount by way of the tax in contravention of the provisions of sub-section (*1*) or (*2*) or if any registered dealer or licensed dealer collects any amount by way of the tax in excess of the amount payable by him under this Act, the amounts so collected shall, without prejudice to any prosecution that may be instituted against such person or dealer for any offence under this Act, be forfeited to the State Government and such person or dealer, as the case may be, shall, within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.

(*5*) If any person to whom sub-section (*3*) applies contravenes the provisions of the said sub-section, then without prejudice to any prosecution that may be instituted against such person, he shall be liable to a fine equal to double the amount of the bill or cash memorandum in respect of which such contravention has occurred or Rs. 100, whichever is less.

Chapter VI.

Liability to produce accounts, to supply information and to pay the tax in the case of transfer of business, and cancellation of certificate of registration or licence.

Accounts.

22. (*1*) Every registered dealer and every licensed dealer or any person liable to pay the tax under this Act and every other dealer who is required so to do by the Collector by notice served in the prescribed manner shall keep a true account of the value of the goods bought and sold by him, and if the Collector considers that such account is not sufficiently clear and intelligible to determine whether or not such dealer or any person is liable to pay the tax during any period under this Act, or to make a proper scrutiny of the returns or statements furnished by him, the Collector may require such dealer or person by notice in writing to keep such accounts (including records of sales or purchases) necessary for the purposes of proper assessment as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(*2*) The Collector may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

Production and inspection of accounts and documents, and search of premises.

23. (*1*) The Collector may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer or any other information, relating to his business as may be necessary for the purposes of this Act.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Collector and the Collector may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(*3*) If the Collector has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*), the Collector may enter and search any place of business or warehouse of any dealer or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business.

(*5*) The provisions of sub-sections (*1*) to (*4*) shall also apply *mutatis mutandis* in the case of persons liable to pay the tax under section 18.

Dealer to declare the name of manager of his business.

24. Every dealer, who is liable to pay the tax under this Act and who is an undivided Hindu family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

Information to be furnished regarding changes of business.

25. If any dealer to whom the provisions of this Act apply—

(*a*) sells or otherwise disposes of his business or any part of his business, or effects or comes to know of any other change in the ownership of the business, or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods sold by him,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

26. (*1*) When the ownership of the business of a dealer liable to pay the tax under this Act is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee, as if he were the dealer liable to pay such tax; and the transferee shall also be liable to pay tax under this Act on the sales of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration or licence, as the case may be, unless he already holds a certificate of registration or a licence, as the case may be.

(*2*) When a dealer liable to pay the tax under this Act transfers the ownership of a part of his business the transferor shall be liable to pay the tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods have been sold by him, unless the transferee holds a certificate of registration or licence, as the case may be, or obtains it within the prescribed period.

(*3*) (*i*) When a firm liable to pay the tax under this Act is dissolved, or

(*ii*) where an undivided Hindu family liable to pay tax under this Act is partitioned,

such firm or family, as the case may be, shall be liable to pay tax under this Act on the goods allotted to any partner or member thereof as if the goods had been sold to such partner or member unless he holds a certificate of registration or a licence, as the case may be, or obtains it within the prescribed period.

(*4*) When a dealer to whom a part of the business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, or an undivided Hindu family which is partitioned, obtains a certificate of registration or a licence, as the case may be, he shall be liable to pay the tax on the turnover in respect of sales of goods made by him with effect from the date of such transfer of business, discontinuance or dissolution of the partnership, or the partition of the family, as the case may be.

CHAPTER VII.

Proceedings.

Power of Collector to determine disputes.

27. If any question arises otherwise than in a proceeding before a court whether or not, for the purposes of this Act,—

(*a*) any person, society, club or association, firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale, or

(*c*) any particular dealer is liable to registration or required to take a licence, or

(*d*) any tax is payable in respect of any particular sale,

the Collector shall make an order determining such question :

Provided that the Collector may in any such order direct that any such determination shall not affect the liability of any dealer under this Act in respect of any sale effected prior to the date of any such determination :

Provided further that if any such question arises from any order already passed under this Act, no proceeding shall be entertained for the determination under this section, but such question may be raised in any appeal or application for revision against such order, which lies under section 30 or 31.

Powers of Tribunal and Collector.

28. For the purposes of this Act,—

(*1*) the Tribunal and the Collector shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses ;

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Collector may administer the oath to the deponent.

Bar to certain proceedings.

29. Save as is provided by section 34, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided by sections 30 and 31 no appeal or application for revision shall lie against any such assessment or order.

Appeal.

30. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such assessment or other order :

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of the tax including penalty, if any, or on proof of payment of such smaller amount as it may direct.

(2) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think fit.

(3) Every order passed in appeal under this section shall subject to the provisions of sections 31, 34 and 35, be final.

Revision.

31. (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(2) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(3) Where a person could have appealed under section 30, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

32. In computing the period laid down under sections 30 and 31 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.

IX of 1908.

Extension of period of limitation in certain cases.

33. The prescribed authority may admit any appeal under section 30 and the Collector and the Tribunal may admit an application under section 31, after the period of limitation laid down in the said sections if the appellant or the applicant, as the case may be, satisfies the prescribed authority, the Collector or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application within such period.

Statement of case to High Court.

34. (1) Within ninety days from the passing by the Tribunal of any order under sub-section (2) of section 30 or sub-section (1) of section 31 affecting any liability of any dealer to pay tax under this Act, such person or the Collector may, by application in writing accompanied where the application is made by any person (other than the Collector) by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

(a) withdraw his application, or

(b) apply to the High Court against such refusal

and in the case of withdrawal under clause (a), the fee, if any, paid under sub-section (1) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (1)) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 19.

Rectification of mistakes.

35. (1) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer :

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Collector has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under section 30 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax, the Collector shall in the prescribed manner refund any amount due to the dealer.

(4) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Collector shall recover the amount due from the dealer in the manner provided for in section 16.

Chapter VIII.

Offences and Penalties.

Offences and Penalties.

36. Whoever—

(a) carries on business as a dealer without applying for registration or grant or renewal of licence in contravention of section 9, 12 or 26, or

(b) fails without sufficient cause, to furnish any return or statement as required by section 13 or 18 or knowingly furnishes a false return or statement ; or

(*c*) not being a licensed dealer under section 12 falsely represents that he has been or was a licensed dealer at the time when he sells or sold any special goods ; or

(*d*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 21 ; or

(*e*) fails to keep a true account of the value of the goods bought and sold by him as required by section 22, or fails, when directed so to do under that section to keep any accounts or records in accordance with the direction ; or

(*f*) fails to comply with any requirement made of him under section 23 ; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 23 ; or

(*i*) neglects to furnish any information required by section 25 ; or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*);

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both ; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

Cognizance of offences.

37. (*1*) No court shall take cognizance of any offence punishable under section 36 or under any rules made under this Act, except with the previous sanction of the Collector and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

V of 1898.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

Investigation of offences.

38. (*1*) Subject to such conditions as may be prescribed, the Collector may authorise any persons appointed under section 3 to assist him to investigate all offences punishable under this Act.

V of

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

Compounding of offences.

39. (*1*) The Collector may, either before or after the institution of proceedings for any offence punishable under section 36 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged is under clause (*a*), (*b*), (*c*), (*e*) or (*g*) of sub-section (*1*) of section 36, not exceeding double the amount of tax which would have been payable on the sale or turnover to which the said offence relates, whichever is greater.

(*2*) On payment of such sum as may be determined by the Collector under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER IX.

Miscellaneous.

Persons appointed under section 3 and members of Tribunal to be public servants.

40. All persons appointed under section 3 and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Indemnity.

41. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

42. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*), (*a*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purpose of the said Act, or (*c*) to any authority acting in exercise of the powers conferred on it by any law of a State imposing a tax on the sale or purchase of goods where it is necessary to disclose the same to such authority for the purposes of the said law. XLV of 1860. XI of 1922.

Appearance before any authority in proceedings.

43. Any person, who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

Delegation of powers and duties and transfer of proceedings.

44. (*1*) Subject to such conditions and restrictions as the State Government may, by general or special order impose, the Collector may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

(*2*) The Collector may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person to whom he has delegated his powers and duties in respect thereof, and he may likewise transfer any such proceeding (including a proceeding already transferred under this sub-section) from one such person to another to whom the said powers and duties have been delegated or to himself.

Power to make rules.

45. (*1*) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(*a*) the period for return of goods under clause (21) of section 2;

(*b*) the qualifications to be possessed by a member of the Tribunal;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 and sub-section (*4*) of section 10 ;

(*d*) the circumstances in which and the conditions subject to which the Collector may accept a lump sum by way of composition under sub-section (*2*) of section 6 ; and the manner of determining such sum ;

(*e*) the other sales, turnover in respect of which may be deducted from a dealer's turnover in computing his taxable turnover as defined in section 7 and in section 11 ;

(*f*) the period within which, the manner in which and the authority to which application for registration shall be made under section 9 ;

(*g*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-sections (*6*) and (*8*) of that section ;

(*h*) the period within which, the manner in which and the authority to which an application for licence shall be made under section 12 ;

(*i*) the form of licence under section 12 and the period for which and the conditions subject to which a licence shall be granted ;

(*j*) the manner in which and the period for which a licence shall be renewed under section 12 and the fee for grant or renewal of a licence and the manner in which an application for cancellation of a licence shall be made and the date from which cancellation of licence shall take effect under sub-section (*6*) of that section ;

(*k*) the returns to be furnished under section 13 and the dates by which, and the authority to which, such returns shall be furnished and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 13 ;

(*l*) procedure to be followed for assessment under section 14 ;

(*m*) the intervals at which, and the manner in which, the tax shall be payable under section 16 ;

(*n*) the forms of certificate and statement, the manner in which, the authority to which and the period within which such certificate and statement shall be submitted under section 18 ;

(*o*) the manner in which refunds under section 19 shall be made ;

(*p*) conditions subject to which tax may be remitted under section 20 ;

(*q*) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (*4*) of section 21 ;

(*r*) the accounts and forms thereof required by the Collector to be kept under sub-section (*1*) of section 22 and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (*2*) of the said section 22 ;

(*s*) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 23 ;

(*t*) the period within which, the authority to which and the manner in which a declaration shall be sent under section 24 ;

(*u*) the authority to which, and the time within which, information shall be furnished under section 25 ;

(*v*) the period within which a certificate of registration or licence shall be obtained under sub-section (*2*) or sub-section (*3*) of section 26 ;

(*w*) the manner in which, and the authority to which, an appeal against any order under this Act may be preferred under section 30 ;

(*x*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 30 and 31 ;

(*y*) the conditions and the qualifications for the purposes of clause (*c*) of section 43;

(*z*) the manner in which, and the time within which, the applications shall be made, information furnished and notices served, under this Act;

(*za*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Modification in application of Act to district of Amreli.

46. In the application of this Act to the district of Amreli, the foregoing provisions shall be construed subject to the following modifications, namely :—

(*1*) in Schedule I, after entry No. 42, the following shall be added, namely :—

"43. Cloth manufactured in mills or on powerlooms,—

(*i*) made out of cotton yarn only, or

(*ii*) sold at a rate not exceeding rupees two per yard.

44. Sugar.

45. The grocery articles (*Kariana*) which the State Government may, by a notification in the *Official Gazette*, specify.

46. Oil of sesame (*tal*), safflower (*kardi*) and groundnut, when sold without being hydrogenated.

47. Domestic utensils of brass, copper and aluminium.";

(*2*) in Schedule II, the following items shall be deleted, namely :—

"(*i*) Articles (including rubber and other tyres, and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*;

(*ii*) All clocks, time-pieces and watches and parts thereof."

Repeal.

47. (*1*) The Bombay Sales Tax Act, 1946, and in the Third Schedule to the Bombay Merged States (Laws) Act, 1950, all the entries relating to the Bombay Sales Tax Act, 1946, are repealed with effect from the appointed day. Bom. V of 1946. Bom. IV of 1950.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect — Bom. V of 1946.

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the appointed day;

(*ii*) any legal proceeding or remedy pending in respect of any right, title, interest, obligation or liability or anything done or suffered before the appointed day and any such proceeding shall be continued and disposed of, as if this Act had not been passed;

(*iii*) the recovery of any tax or penalty which may have become payable under any of the Acts so repealed before the appointed day and all such taxes or penalties or arrears thereof shall be recovered, as the case may be, as if this Act had not been passed.

(*3*) Any appointment, notification, notice, order, rule, regulation or form made or issued under any of the enactments hereby repealed shall continue in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, regulation or form is not inconsistent with the provisions of this Act, unless and until it is superseded by an appointment, a notification, notice, order, rule, regulation or form made or issued under this Act.

(*4*) Any reference to the Bombay Sales Tax Act, 1946, contained in the Bombay Sales of Motor Spirit Taxation Act, 1946, shall, with effect from the appointed day, be deemed to be a reference to this Act. Bom. V of 1946. Bom. VI of 1946.

SCHEDULE I.

(*See* SECTION 8.)

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	Agricultural implements worked or operated exclusively by human or animal agency of the following kinds :— Chaff-cutters, harrows ; iron and leather *mhots*, iron ploughs and plough-points ; *rahats* ; sickles ; wooden seed-drills.	
2	All cereals and pulses including all forms of rice ..	Except when sold in sealed containers.
3	Artificial silk yarn	
4	Betel leaves.	
5	Betelnuts.	
6	Bread.	
7	Butter-milk and curds.	
8	Cattle, sheep and goats.	
9	Cattle-feed including fodder, cotton seed and other concentrates.	
10	*Charkha* and other implements used in the production of handspun yarn or handwoven cloth as may be specified by the State Government by notification in the *Official Gazette*.	
11	Cloth woven on handlooms out of mill-spun cotton yarn and sold at a rate not exceeding Rs. 1-8-0 per yard.	
12	Cotton (whether ginned or unginned).	
13	Cotton yarn.	
14	Edible oils manufactured in *ghanis* by human or animal agency.	When sold by such owners of *ghanis* as have been recognised for this purpose by the Collector of Sales Tax.
15	Electrical energy.	
16	Fertilizers.	
17	Firewood and charcoal.	
18	Fish	Except when sold in sealed containers.
19	Flour including *atta*, *maida*, *suji* and bran	Do. do.
20	Flowers.	
21	Food and non-alcoholic drinks consumed at a hotel, restaurant, refreshment room, eating house or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time exceeds Rupee one.
22	Fresh eggs.	

SCHEDULE I—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
23	Fresh fruits.	
24	Fresh milk whole or separated.	
25	Fresh vegetables.	
26	*Gur*.	
27	Hides and skins of cattle, sheep and goats.	
28	Kerosene.	
29	*Khaddar* and clothes and other articles of *khaddar* ...	When sold by dealers recognised for this purpose by the Collector of Sales Tax.
30	Manures including oilcakes.	
31	Matches.	
32	Meat	Except when sold in sealed containers.
33	Motor spirit, meaning— (*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and (*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid; but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf.	
34	Oilseeds.	
35	Pepper, tamarind, chillies, chilly-powder and turmeric powder.	Except when sold in sealed containers.
36	Quinine.	
37	Salt.	
38	Slates and slate pencils; chalk-sticks and crayons; foot-rules and drawing books.	
39	Stamp paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
40	Text books sanctioned by the State Government, the Director of Education for the State of Bombay, or the Educational Inspectors of Divisions or approved by the Bombay Municipal Schools Committee.	
41	Tobacco in any form whether manufactured or not.	
42	Water other than aerated and mineral waters.	

SCHEDULE II.

(*See* SECTION 10.)

Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 12.
1	2	3
1. All arms including rifles, revolvers, pistols and ammunition for the same.	One anna in the rupee.	1/17th part.
2. Cinematographic equipment including cameras, projectors, enlargers and sound recording and reproducing equipment; lenses and other parts of and accessories to such equipment, and films, plates, paper and cloth required for use therewith.	Do.	Do.
3. Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.	Do.	Do.
4. Foreign liquor as defined in clause (17) of section 2 of the Bombay Prohibition Act, 1949, read with the proviso thereto.	Do.	Do.
5. Iron and steel safes, almirahs and furniture ..	Do.	Do.
6. (*i*) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries.	Do.	Do.
(*ii*) Chasis of Motor vehicles.		
(*iii*) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*.		
7. Refrigerators and air-conditioning plants and parts thereof, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
8. Sound-transmitting equipment including telephones and loud speakers.	Do.	Do.
9. Tabulating, calculating, cash registering, indexing, cardpunching, franking and addressing machines and Adrema machines.	Do.	Do.
10. Typewriters and duplicating and roneo machines and parts and accessories thereof.	Do.	Do.
11. Upholstered furniture	Do.	Do.
12. Wireless reception instruments and apparatus and radio gramophones and component parts thereof including all electrical valves, accumulators, amplifiers, loud speakers.	Do.	Do.
13. All clocks, time-pieces and watches and parts thereof.	Nine pies in the rupee.	3/67th part.
14. All fabrics and articles for personal wear in which the combined weight of silk and synthetic fibre (other than artificial silk) used is more than 50 per cent.	Do.	Do.
15. All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered sold at a rate not less than Rs. 3 per yard and goods made from such fabrics and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.	Do.	Do.

SCHEDULE II—*contd.*

	Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 12.
	1	2	3
16.	Articles made of ivory, sandalwood or blackwood or inlaid therewith; ornamental metalware with enamelled or carved designs; and gold and silver filigree.	Nine pies in the rupee.	3/67th part.
17.	Binoculars and opera glasses	Do.	Do.
18.	Cigarette cases and lighters	Do.	Do.
19.	Cloth of any kind sold at a rate not less than Rs. 3 per yard.	Do.	Do.
20.	Domestic electrical appliances other than torches, torch cells, filament, lighting bulbs and fans.	Do.	Do.
21.	Fireworks	Do.	Do.
22.	Fountain pens, stylograph pens and propelling pencils.	Do.	Do.
23.	Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.	Do.	Do.
24.	Glassware, chinaware and domestic pottery but excluding such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
25.	Gramophones and component parts thereof and records.	Do.	Do.
26.	Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial and cultured.	Do.	Do.
27.	Ladies' handbags and vanity bags	Do.	Do.
28.	Leather suit cases	Do.	Do.
29.	Musical instruments	Do.	Do.
30.	Perfumery (excluding synthetic essential oils), cosmetic and toilet articles, except soaps and other articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
31.	Photographic and other cameras and enlargers, lenses, and other parts of and accessories to such cameras and enlargers and films, plates, paper and cloth required for use therewith.	Do.	Do.
32.	Pile carpets	Do.	Do.
33.	Plastic sheets, fabrics and articles made of plastic.	Do.	Do.
34.	Playing cards.	Do.	Do.
35.	Shoes and footwear sold at a rate not less than rupees fifteen per pair.	Do.	Do.
36.	Silk cloth and goods made from such cloth (excluding gas mantles).	Do.	Do.
37.	Stainless steel sheets and articles made of stainless steel.	Do.	Do.
38.	Table cutlery, including knives, forks and spoons.	Do.	Do.
39	Woollen goods excepting *kamblis* costing less than Rs. 12 each.	Do.	Do.
40	Artificial silk yarn	Three pies in the rupee.	1/65th part.
41	Hides and skins of cattle, sheep and goats ..	Do.	Do.
42.	Cotton (whether ginned or unginned)	One per cent.	Nil.
43.	Cotton seed	Do.	Do.
44.	Oil seeds	~~Three pies in the rupee~~ one per cent	~~1/66th part.~~ nil

STATEMENT OF OBJECTS AND REASONS.

Under the present Bombay Sales Tax Act, the tax is levied at a single-point at the last stage of sales in the series of transactions which bring the goods into the hands of the consumer. Government has reviewed the working of this system and has found that in spite of the various modifications made from time to time in the present Act, there is considerable leakage of revenue. Government considers that the most effective method of reducing the leakage of revenue, which is detrimental both to the interests of public revenue and of the honest tax-payer; is to change over the present system of tax from the single-point to the multi-point. The latter system has been in force in the State of Madras for a number of years and is in force in many other States also. It is proposed to fix the rate of tax under the multi-point system at such a rate as not to impose any substantial additional burden on the consumers. Instead of levying the tax at half an anna in the rupee on the last sales, it is now proposed to levy a general tax at each stage of sale at three pies in the rupee. Certain goods which are now taxed at one anna at the last stage, will, however, be made liable to an additional tax of nine pies in the rupee (at one anna in some cases), at the first point of sale. An entirely new Bill is accordingly presented incorporating the above and certain other proposals explained in the notes below.

Notes on Clauses.

Clause 2.—This incorporates the definitions. In most cases, they follow the definitions in the old Act. A few additions and modifications have, however, been made to meet the requirements of the new Bill. The important ones are : the definition of dealer which now excludes an agriculturist selling his own produce ; the definitions of "buy" and "purchase" which have become necessary as the tax is levied, in certain cases e.g., under clause 10, and under clause 20, on purchases.

Clauses 3 and 4.—These incorporate sections 3 and 4 of the present Act, and provide for the appointment of Sales Tax Authorities and for the constitution of the Sales Tax Tribunal.

Clause 5.—This specifies the liability of dealers to the general tax.

Clauses 6 to 9.—These incorporate similar provisions from the old Act with suitable changes and provide for the levy of the general tax at 3 pies in the rupee, for determination of the taxable turnover, and for the exemption of certain articles specified in Schedule I from the levy of general tax, and for the registration of dealers liable to tax.

Clause 10.—This is intended to equalise the incidence of tax on stocks purchased by the dealers tax free under the old Act and remaining unsold on the day appointed for bringing the tax into effect.

Clause 11.—This provides for the determination of the liability of dealers to the special tax levied on articles specified in Schedule II, and for the levy thereof at the rates specified in that Schedule.

Clauses 12 and 13.—These provide for the determination of the taxable turnover and for the licensing of dealers liable to the special tax in order to facilitate the collection of that tax.

Clause 14.—This corresponds to clause 10.

Clauses 15 to 19.—These incorporate similar provisions from the old Act and provide for the submission of returns by dealers liable to tax, for their assessment to tax, for assessing turnover of any dealer that has escaped assessment, and for the payment and recovery of tax.

Clause 20.—This is a new provision specially incorporated to prevent the avoidance of tax through a manipulation of sales. Some dealers take wrong advantage of the provisions of Article 286 of the Constitution. They sell or show as having sold, their goods to dealers outside this State while these dealers sell back or show as having sold back, the same goods to consumers in this State. By this method they escape taxation in both the States and carry on unfair competition with honest dealers. Sometimes, the goods do not even leave this State and the manipulations are carried out only in the books of the two dealers by mutual consent. To prevent these malpractices and safeguard public revenues, this clause provides that the tax should be paid by the purchaser of such goods unless he satisfies the Sales Tax authorities that the dealer from whom he has purchased, has already paid or will pay the tax. It is proposed to apply this clause to only such goods in respect of which the malpractices described above, have become very common.

Clauses 21 and 22.—Clause 21 incorporates similar provisions of the old Act and provides for refunds or adjustments of amounts paid in excess, while clause 22, which is new, provides for remission of tax in the case of dealers who have suffered financially through natural calamities like floods, earthquake, etc. or through riots.

Clause 23.—This is based on a similar section in the old Act, and prohibits the collection of amount by dealers by way of tax on exempted goods or by dealers who are themselves not liable to pay the tax under this Bill. Sub-clause (3) provides that every dealer whose total annual turnover is more than Rs. 60,000 must issue a bill or cash memorandum in respect of all goods sold by him. This is intended to prevent evasion of tax by the dealers by omitting to issue bills or cash memo and thereby suppressing their sales. Sub-clause (4) provides penalties for contravention of sub-clauses (1) and (2). A new sub-clause has been added to levy in addition to any prosecution that may be launched, a penalty limited to Rs. 100 in the case of each offence in respect of dealers who fail to issue a bill or a cash memo.

Clauses 24 to 29.—These incorporate similar provisions from the old Act and provide for the liability of dealers for production of accounts, for supplying the required information to the Sales Tax authorities and for paying the tax in the case of transfer of business and cancellation of registration and licence.

Clauses 30 to 37.—These also incorporate similar provisions from the old Act and relate to the determination of any questions arising in the working of the Act and to the proceedings before the Collector, the Tribunal and the High Court. They also lay down the procedure regarding the revision and appeals, and the extension of the period of limitation in certain cases.

Clause 38.—This clause also incorporates similar provision from the old Act and empowers the Collector and the Tribunal to rectify mistakes, subject to certain conditions, in the orders passed by them.

Clauses 39 to 42.—These relate to offences and penalties and the compounding of offences in certain cases. They follow similar provisions in the old Act.

Clauses 43 to 48.—These are miscellaneous provisions all of which are incorporated from similar provisions in the old Act. They provide for the declaration of the Sales Tax authorities and the Tribunal, as public servants for purposes of Indian Penal Code and indemnify Government servants acting under the Act from any proceedings for anything done by them in good faith. Clause 45 provides that all returns, statements and documents, furnished by the dealers to the Sales Tax authorities should be treated as confidential. Exception is, however, made in the case of the income-tax authorities. In their case it is necessary to exchange information, as the income-tax authorities are also permitted to supply information to the sales tax authorities so that a proper enforcement of both the Sales Tax Act and the Income-tax Act is achieved. Clause 46 prescribes the manner in which a person shall appear before any authority in connection with the proceedings under the Bill, while clause 47 provides for the delegation of the powers of the Collector under the Act to his subordinate officers, subject to such conditions and restrictions as Government may impose. Clause 48 is the usual clause which enables Government to make rules for the purpose of working and enforcing the different provisions of the Bill.

Clause 49.—This clause includes the modifications made in the Bombay Sales Tax Act, 1946, in its application to the Amreli District. As Amreli is surrounded by the territories of the Saurashtra State, and the rate and basis of sales tax in that State differ materially from those prevailing in the State of Bombay, these modifications were made in 1950 with a view to remove the hardships of the dealers in that district. The provisions of this clause incorporate, with slight modification, similar provisions in the old Act in its application to the district of Amreli.

Clause 50.—This provides for the repeal of the Bombay Sales Tax Act, 1946, subject to the usual conditions regarding the continuation of liabilities, rights, obligations etc., arising out of the old Act.

Dated the 14th July 1952.

JIVRAJ N. MEHTA.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXIX OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

[Dr. Jivraj N. Mehta, M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXIX OF 1952.

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

(As read for the third time and passed with amendments by the Legislative Council on the 16th August 1952.)

WHEREAS it is expedient to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint :

Provided that in its application to the district of Amreli the provisions thereof shall until the State Government by notification in the *Official Gazette* directs otherwise, be construed subject to the modifications specified in section 16.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) " agriculture " with its grammatical variations includes horticulture, the raising of crops, grass or garden produce, and grazing, but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood ;

(*2*) " agriculturist " means a person who cultivates land personally ;

(*3*) " appointed day " means the day which the State Government may by notification in the *Official Gazette* specify as the appointed day for the purposes of sections 5, 9, 10 and 47 ;

(*4*) "to cultivate" with its grammatical variations and cognate expressions means to carry on any agricultural operation ;

(*5*) " to cultivate personally " means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of one's own family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family ;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour ;

Explanation II.—In the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family ;

(*6*) " Collector " means the Collector of Sales Tax appointed under section 3 ;

(*7*) " dealer " means any person who carries on the business of selling goods in the State of Bombay, whether for commission, remuneration or otherwise and includes a State Government which carries on such business and any society, club or association which sells goods to its members ;

Explanation.—The manager or agent of a dealer who resides outside the State of Bombay and carries on the business of selling goods in the State of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act ;

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause ;

(*8*) " general tax " means the tax leviable under section 5 ;

(*9*) " goods " means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities ;

(*10*) " licensed dealer " means a dealer who holds a licence granted under section 12 ;

(*11*) " prescribed " means prescribed by rules ;

(*12*) " registered dealer " means a dealer registered under section 9 ;

(*13*) " rules " means rules made under this Act ;

(*14*) " sale " with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes any supply by a society, a club, or an association to its members on payment of price or on fees or subscription but does not include a mortgage, hypothecation, charge or pledge ; the words " buy " and " purchase " shall be construed accordingly ;

III of 1980.

Explanations.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930—

(*1*) an agreement for hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller, pending the payment of the entire amount of the price or any part thereof, retains property in the goods as security for the payment of the price, be deemed to be a sale made on the date of such agreement;

(*2*) the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State, shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State;

(*15*) "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged;

(*16*) "Schedule" means a schedule appended to this Act;

(*17*) "special goods" means goods specified in column 1 of Schedule II;

(*18*) "special tax" means the tax leviable under section 10;

(*19*) "tax" means the general tax, special tax or purchase tax payable under the provisions of this Act;

(*20*) "Tribunal" means the Tribunal constituted under section 4;

(*21*) "turnover" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and

(*22*) "year" means the financial year.

CHAPTER II.

Sales-tax Authorities and Tribunal.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the State Government may appoint any person to be a Collector of Sales Tax, and such other persons to assist him as the State Government thinks fit.

(*2*) A person appointed under sub-section (*1*) shall, within the limits of the area specified to be within his jurisdiction, exercise such powers as may be conferred and perform such duties as may be imposed on him by or under this Act.

Tribunal.

4. (*1*) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act.

(*2*) The Tribunal shall consist of not more than three persons possessing such qualifications as may be prescribed.

(*3*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.

(*4*) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(*5*) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and the disposal of its business.

(*6*) The regulations made under sub-section (*5*) shall be published in the *Official Gazette*.

CHAPTER III.

General Tax.

General Tax.

5. (*1*) Subject to the provisions of section 8, every dealer—

(*a*) whose turnover in respect of all sales made within the State of Bombay during any of the three consecutive years immediately preceding the first day of April 1952, has exceeded Rs. 30,000, or

(*b*) whose turnover in respect of such sales exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay the general tax at the rate specified in sub-section (*1*) of section 6 on his turnover in respect of sales of goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply but clause (*b*) applies shall not be liable to pay the general tax in respect of his turnover up to Rs. 30,000, as computed from the first day of April 1952.

(*2*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the general tax from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay, exceeds the limit specified in the said sub-section :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*3*) Every dealer who has become liable to pay the general tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) ; and such further period after the date of such expiry as may be prescribed and on the expiry of the latter period his liability to pay the general tax shall cease.

(*4*) Every dealer whose liability to pay the general tax has ceased under the provisions of sub-section (*3*) shall again be liable to pay the said tax with effect from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay again exceeds the limits specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*5*) The general tax payable by a dealer under this section shall be in addition to the tax payable on special goods under section 10.

Levy and rate of general tax.

6. (*1*) The general tax payable by a dealer shall be levied at the rate of three pies in the rupee on his taxable turnover in respect of sales of goods :

Provided that the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer in respect of sales of bullion or specie at the rate of one-fourth per cent.

(*2*) The Collector may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period a lump sum by way of composition determined in the prescribed manner.

Taxable turnover for purpose of general tax.

7. The taxable turnover for the purposes of sub-section (*1*) of section 6 shall be determined in the following manner, namely :—

(*i*) From the turnover of the dealer in respect of all his sales of goods during any period of his liability to pay the general tax, there shall first be deducted his turnover during that period in respect of—

(*a*) sales of any goods declared from time to time as tax free under section 8, and

(*b*) such other sales as may be prescribed.

(*ii*) From that part of the balance remaining after making deductions under clause (i) which is in respect of sales of goods other than bullion and specie, there shall be deducted one-sixty-fifth part of such balance.

(*iii*) The balance remaining after making deductions under clauses (*i*) and (*ii*) shall be the taxable turnover for the purposes of sub-section (*1*) of section 6.

Goods free from general tax.

8. (*1*) No general tax shall be payable on the sales of goods specified in column 1 of Schedule I subject to the conditions and exceptions, if any, set out in the corresponding entry in column 2 thereof.

(*2*) The State Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification make additions, variations or omissions to or in the said Schedule or add to, vary or omit any of the conditions or exceptions, specified in the said Schedule, and thereupon the said Schedule shall be deemed to have been amended accordingly.

Registration of dealers.

9. (*1*) No dealer shall, while being liable to pay the general tax, carry on business as a dealer unless he has applied for registration within such period as may be prescribed :

Provided that for the purposes of this sub-section the turnover shall be calculated without making the deductions referred to in section 7.

(*2*) Every dealer required by sub-section (*1*) to apply for registration shall make an application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(*4*) The prescribed authority may, from time to time, amend any certificate of registration after considering the information furnished under section 25 or otherwise received.

(*5*) When any dealer has been convicted under section 36 or has paid composition money under section 39 in respect of any contravention of sub-section (*1*), the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (*3*) on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of three consecutive years failed to exceed the limit specified in sub-section (*1*) of section 5 and the dealer has applied in the prescribed manner for cancellation of his registration,

the prescribed authority shall cancel the registration with effect from the prescribed date.

Bom. V of 1946.

(*7*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force, immediately prior to the appointed day and to whom sub-section (*1*)

of section 5 applies, shall notwithstanding anything contained in sub-section (*2*) be deemed to be duly registered under sub-section (*3*).

(*8*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force immediately prior to the appointed day and to whom sub-section (*1*) of section 5 does not apply, shall apply in the prescribed manner to the prescribed authority for cancellation of his registration, and the said authority shall cancel his registration with effect from the prescribed date. Bom. V of 1946.

Chapter IV.

Special Tax.

Incidence and rate of special tax.

10. (*1*) Every dealer whose turnover in respect of all sales of special goods made within the State of Bombay—

(*a*) has exceeded Rs. 5,000 during the year ended on the thirty-first day of March 1952, or

(*b*) exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay a special tax at the rate specified against them in column 2 of Schedule II on his taxable turnover in respect of sales of special goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply, but clause (*b*) applies shall not be liable to pay the special tax in respect of such turnover up to Rs. 5,000 as computed from the first day of April 1952.

(*2*) The special tax payable by a dealer under this section shall be paid in addition to the general tax, if any, payable by such dealer under section 5.

(*3*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the special tax under this section with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*4*) Every dealer who has become liable to pay the special tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales of special goods made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the special tax shall cease.

(*5*) Every dealer whose liability to pay the special tax has ceased under the provisions of sub-section (*4*) shall again be liable to pay the special tax with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay again exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax under this section during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*6*) The State Government may by notification in the *Official Gazette* omit any of the entries in Schedule II or part thereof or reduce the rate of tax specified in the second column or vary the deduction specified in the third column thereof in respect of any of the said entries or parts thereof.

Taxable turnover for purposes of special tax.

11. The taxable turnover for the purposes of sub-section (*1*) of section 10 shall be determined in the following manner, namely :—

(*i*) From the turnover of the dealer in respect of all his sales of special goods during any period of his liability to pay the special tax, there shall first be deducted his turnover in respect of—

(*a*) sales of special goods purchased by him on or after the appointed day at a place in the State of Bombay from a dealer holding a licence under section 12, provided that such goods have not been processed or altered by him in any manner;

(*b*) such other sales as may be prescribed.

Explanation.—If a dealer liable to pay the special tax transfers the ownership of the whole or any part of his business, the stock of goods transferred along with such business shall not for the purposes of clause (*a*) be deemed to be purchased by the transferee.

(*ii*) From the balance remaining after making deductions under clause (*i*), there shall be deducted such part of the balance as is specified in column 3 of Schedule II against each of the special goods and the remainder shall be the taxable turnover for the purposes of sub-section (*1*).

Dealer to obtain licence.

12. (*1*) No dealer shall, while being liable to pay the special tax, carry on business as such dealer unless he has applied for a licence within such period as may be prescribed :

Provided that for the purposes of this sub-section the turnover in respect of all sales of special goods made within the State of Bombay shall be calculated without making the deductions referred to in section 11.

(*2*) Every dealer required by sub-section (*1*) to apply for a licence shall make an application in that behalf to the prescribed authority in the prescribed manner.

(*3*) If the prescribed authority is satisfied that an application for licence is in order, it shall grant a licence to the applicant in such form and for such period and subject to such conditions as may be prescribed.

(*4*) Any licence granted under sub-section (*3*) shall from time to time be renewable in the prescribed manner for such period as may be prescribed.

(*5*) A licence under this section shall be granted or renewed on payment of such fee not exceeding Rs. 5 as may be prescribed.

(*6*) When—

(*a*) any business in respect of which a licence has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of the three consecutive years failed to exceed Rs. 5,000 and the licensed dealer has applied in the prescribed manner for cancellation of his licence,

the prescribed authority shall cancel the licence with effect from the prescribed date.

CHAPTER V.

Returns, assessment, payment, recovery and refund of the tax and levy of tax on purchases.

Returns.

13. (*1*) Every registered dealer and every licensed dealer and every other dealer as may be required so to do by the Collector by notice served in the prescribed manner shall furnish such returns by such dates and to such authority as may be prescribed :

Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct.

(*2*) If any dealer having furnished returns under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return before the expiry of three months next following the period to which such return relates.

Assessment of taxes.

14. (*1*) The amount of the tax due from a registered or a licensed dealer shall be assessed separately for each year during which he is liable to pay the tax :

Provided that when a dealer has failed to furnish any return relating to any period in a year by the prescribed date, the Collector may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year :

Provided further that the Collector may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

(*2*) If the Collector is satisfied without requiring the presence of a dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of the tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns or such other evidence as may be specified in such notice.

(*b*) On the date specified in the notice or as soon afterwards as may be, the Collector shall, after considering such evidence as the dealer may produce and such other evidence as the Collector may require on specified points assess the amount of the tax due from the dealer.

(*4*) If a dealer having furnished returns in respect of a period fails to comply with the terms of the notice issued under sub-section (*3*), the Collector shall assess, to the best of his judgment, the amount of the tax due from the dealer.

(*5*) If a dealer does not furnish returns in respect of any period by the prescribed date, the Collector shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer.

(*6*) If upon information which has come into his possession, the Collector is satisfied that any dealer has been liable to pay the tax in respect of any period but has failed to apply for registration or licence, the Collector shall, after giving the

dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration or for the grant of a licence, the Collector may direct the dealer to pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment.

15. If in consequence of any information which has come into his possession the Collector is satisfied that any turnover in respect of sales of any goods chargeable to the tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom, the Collector may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or has knowingly furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (3) of section 14 and may proceed to assess or re-assess the amount of the tax due from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section :

Provided that the amount of the tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be :

Provided further that where in respect of such turnover or deduction, as the case may be, an order has already been passed under section 30 or section 31, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

Payment and recovery of tax.

16. (1) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered or licensed dealer furnishes the returns required by sub-section (1) of section 13, he shall, in the prescribed manner, pay into a Government treasury the full amount of the tax due from him under this Act according to such returns.

(3) Before any registered dealer or licensed dealer furnishes a revised return in accordance with sub-section (2) of section 13 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of the tax.

(4) If the tax payable under this Act is not paid by any dealer within the prescribed time, the dealer shall pay, by way of penalty in addition to the amount of tax, a sum equal to three-fourths per cent. of the amount of the tax for every month after the expiry of the prescribed period during which he continues to make default in the payment of the tax.

(5) (i) The amount of tax—

(a) due where the returns are furnished without full payment thereof, or

(b) assessed for any period under section 14 or under section 15 less the sum, if any, already paid by the dealer in respect of such period, or

(ii) the amount of the penalty payable under sub-section (4),

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Collector for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Collector may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(6) Any amount of the tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (5) shall be recoverable as an arrear of land revenue.

Special mode of recovery.

17. (1) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Collector, require—

(a) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (5) of section 16 or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of the tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

(2) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

18. (*1*) In the case of such goods, as may be notified by the State Government in the *Official Gazette* from time to time, which have been despatched or brought from any place in India outside the State of Bombay and are actually delivered as a direct result of a sale to a buyer in the State of Bombay for consumption therein, the buyer shall be liable to pay the tax on the purchase of such goods at the rate of three pies in the rupee and if such goods are special goods he shall also be liable to pay an additional tax at the rate specified in column 2 of Schedule II, unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer or a licensed dealer, as the case may be, and shall pay the tax on such sale in due course. Purchase tax.

(*2*) Every buyer to whom sub-section (*1*) applies, shall furnish the prescribed authority with a statement in the prescribed form within the prescribed time regarding such purchases by him and shall also pay the tax in the prescribed manner, or produce a declaration of the seller, if any.

(*3*) The provisions of sub-sections (*5*) and (*6*) of section 16, and the provisions of section 17 shall apply to any amount of the tax payable under this section.

19. The Collector shall, in the prescribed manner, refund to a registered dealer or licensed dealer applying in this behalf any amount of the tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer by deduction of such excess from the amount of the tax due in respect of any other period : Refunds.

Provided that no claim to refund of the tax paid under this Act shall be allowed unless it is made within 24 months from the date on which the order of assessment was passed or within 12 months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later :

Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (*5*) of section 16 may have been issued and shall then refund the balance remaining, if any.

20. The Collector may, subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable under this Act in respect of any period by any registered or licensed dealer who has suffered financially on account of riots or through natural calamities : Remission of taxes.

Provided that if the amount to be remitted exceeds Rs. 2,000 the remission shall not be made without the previous sanction of the State Government.

21. (*1*) No person shall collect any amount by way of general tax under this Act in respect of sales of any goods which are declared, from time to time, under section 8 as sales on which such tax is not payable. Prohibition against collection of tax in certain cases.

(*2*) No person selling any goods shall collect from the purchaser any amount by way of the tax unless he is a registered dealer or a licensed dealer and is liable to pay the tax under this Act in respect of such sale :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose turnover in respect of all sales made within the State of Bombay exceeds Rs. 60,000 in a year shall issue a bill or cash memorandum in respect of all goods sold by him, and every licensed dealer shall issue a bill or cash memorandum in respect of any special goods sold by him, signed and dated by him or his servant, manager or agent, to the purchaser in respect of the goods sold by him showing the particulars of the goods and the price at which the goods are sold and shall keep the counterfoil or duplicate of

such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years from such date.

(*4*) If any person collects any amount by way of the tax in contravention of the provisions of sub-section (*1*) or (*2*) or if any registered dealer or licensed dealer collects any amount by way of the tax in excess of the amount payable by him under this Act, the amounts so collected shall, without prejudice. to any prosecution that may be instituted against such person or dealer for any offence under this Act, be forfeited to the State Government and such person or dealer, as the case may be, shall, within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.

(*5*) If any person to whom sub-section (*3*) applies contravenes the provisions of the said sub-section, then without prejudice to any prosecution that may be instituted against such person, he shall be liable to a fine equal to double the amount of the bill or cash memorandum in respect of which such contravention has occurred or Rs. 100, whichever is less.

CHAPTER VI.

Liability to produce accounts, to supply information and to pay the tax in the case of transfer of business, and cancellation of certificate of registration or licence.

Accounts.

22. (*1*) Every registered dealer and every licensed dealer or any person liable to pay the tax under this Act and every other dealer who is required so to do by the Collector by notice served in the prescribed manner shall keep a true account of the value of the goods bought and sold by him, and if the Collector considers that such account is not sufficiently clear and intelligible to determine whether or not such dealer or any person is liable to pay the tax during any period under this Act, or to make a proper scrutiny of the returns or statements furnished by him, the Collector may require such dealer or person by notice in writing to keep such accounts (including records of sales or purchases) necessary for the purposes of proper assessment as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(*2*) The Collector may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

Production and inspection of accounts and documents, and search of premises.

23. (*1*) The Collector may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer or any other information, relating to his business as may be necessary for the purposes of this Act.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Collector and the Collector may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(*3*) If the Collector has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*), the Collector may enter and search any place of business or warehouse of any dealer or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business.

(*5*) The provisions of sub-sections (*1*) to (*4*) shall also apply *mutatis mutandis* in the case of persons liable to pay the tax under section 18.

Dealer to declare the name of manager of his business.

24. Every dealer, who is liable to pay the tax under this Act and who is an undivided Hindu family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

Information to be furnished regarding changes of business.

25. If any dealer to whom the provisions of this Act apply—

(*a*) sells or otherwise disposes of his business or any part of his business, or effects or comes to know of any other change in the ownership of the business, or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods sold by him,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

26. (*1*) When the ownership of the business of a dealer liable to pay the tax under this Act is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee, as if he were the dealer liable to pay such tax; and the transferee shall also be liable to pay tax under this Act on the sales of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration or licence, as the case may be, unless he already holds a certificate of registration or a licence, as the case may be.

(*2*) When a dealer liable to pay the tax under this Act transfers the ownership of a part of his business the transferor shall be liable to pay the tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods have been sold by him, unless the transferee holds a certificate of registration or licence, as the case may be, or obtains it within the prescribed period.

(*3*) (*i*) When a firm liable to pay the tax under this Act is dissolved, or

(*ii*) where an undivided Hindu family liable to pay tax under this Act is partitioned, such firm or family, as the case may be, shall be liable to pay tax under this Act on the goods allotted to any partner or member thereof as if the goods had been sold to such partner or member unless he holds a certificate of registration or a licence, as the case may be, or obtains it within the prescribed period.

(*4*) When a dealer to whom a part of the business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, or an undivided Hindu family which is partitioned, obtains a certificate of registration or a licence, as the case may be, he shall be liable to pay the tax on the turnover in respect of sales of goods made by him with effect from the date of such transfer of business, discontinuance or dissolution of the partnership, or the partition of the family, as the case may be.

CHAPTER VII.

Proceedings.

Power of Collector to determine disputes.

27. If any question arises otherwise than in a proceeding before a court whether or not, for the purposes of this Act,—

(*a*) any person, society, club or association, firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale, or

(*c*) any particular dealer is liable to registration or required to take a licence, or

(*d*) any tax is payable in respect of any particular sale,

the Collector shall make an order determining such question :

Provided that the Collector may in any such order direct that any such determination shall not affect the liability of any dealer under this Act in respect of any sale effected prior to the date of any such determination :

Provided further that if any such question arises from any order already passed under this Act, no proceeding shall be entertained for the determination under this section, but such question may be raised in any appeal or application for revision against such order, which lies under section 30 or 31.

Powers of Tribunal and Collector.

28. For the purposes of this Act,—

(*1*) the Tribunal and the Collector shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses ;

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Collector may administer the oath to the deponent.

Bar to certain proceedings.

29. Save as is provided by section 31, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided by sections 30 and 31 no appeal or application for revision shall lie against any such assessment or order.

Appeal.

30. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such assessment or other order :

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of the tax including penalty, if any, or on proof of payment of such smaller amount as it may direct.

(*2*) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think fit.

(*3*) Every order passed in appeal under this section shall subject to the provisions of sections 31, 34 and 35, be final.

Revision.

31. (*1*) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(*2*) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(*3*) Where a person could have appealed under section 30, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

32. In computing the period laid down under sections 30 and 31 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.

IX of 1908.

Extension of period of limitation in certain cases.

33. The prescribed authority may admit any appeal under section 30 and the Collector and the Tribunal may admit an application under section 31, after the period of limitation laid down in the said sections if the appellant or the applicant, as the case may be, satisfies the prescribed authority, the Collector or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application within such period.

Statement of case to High Court.

34. (*1*) Within ninety days from the passing by the Tribunal of any order under sub-section (*2*) of section 30 or sub-section (*1*) of section 31 affecting any liability of any dealer to pay tax under this Act, such person or the Collector may, by application in writing accompanied where the application is made by any person (other than the Collector) by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(*2*) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

(*a*) withdraw his application, or

(*b*) apply to the High Court against such refusal

and in the case of withdrawal under clause (*a*), the fee, if any, paid under sub-section (*1*) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (1)) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 19.

Rectification of mistakes.

35. (1) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer:

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Collector has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under section 30 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax, the Collector shall in the prescribed manner refund any amount due to the dealer.

(4) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Collector shall recover the amount due from the dealer in the manner provided for in section 16.

CHAPTER VIII.

Offences and Penalties.

Offences and Penalties.

36. Whoever—

(a) carries on business as a dealer without applying for registration or grant or renewal of licence in contravention of section 9, 12 or 26, or

(b) fails without sufficient cause, to furnish any return or statement as required by section 13 or 18 or knowingly furnishes a false return or statement; or

(*c*) not being a licensed dealer under section 12 falsely represents that he has been or was a licensed dealer at the time when he sells or sold any special goods ; or

(*d*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 21 ; or

(*e*) fails to keep a true account of the value of the goods bought and sold by him as required by section 22, or fails, when directed so to do under that section to keep any accounts or records in accordance with the direction ; or

(*f*) fails to comply with any requirement made of him under section 23 ; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 23 ; or

(*i*) neglects to furnish any information required by section 25 ; or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*) ;

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both ; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

Cognizance of offences.

37. (*1*) No court shall take cognizance of any offence punishable under section 36 or under any rules made under this Act, except with the previous sanction of the Collector and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

V of 1898.

Investigation of offences.

38. (*1*) Subject to such conditions as may be prescribed, the Collector may authorise any persons appointed under section 3 to assist him to investigate all offences punishable under this Act.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

V of 1898.

Compounding of offences.

39. (*1*) The Collector may, either before or after the institution of proceedings for any offence punishable under section 36 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged is under clause (*a*), (*b*), (*c*), (*e*) or (*g*) of section 36, not exceeding double the amount of tax which would have been payable on the sale or turnover to which the said offence relates, whichever is greater.

(*2*) On payment of such sum as may be determined by the Collector under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER IX.

Miscellaneous.

Persons appointed under section 3 and members of Tribunal to be public servants.

40. All persons appointed under section 3 and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Indemnity.

41. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

42. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*), (*a*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act, or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purpose of the said Act, or (*c*) to any authority acting in exercise of the powers conferred on it by any law of a State imposing a tax on the sale or purchase of goods where it is necessary to disclose the same to such authority for the purposes of the said law. XLV of 1860. XI of 1922.

Appearance before any authority in proceedings.

43. Any person, who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

Delegation of powers and duties and transfer of proceedings.

44. (*1*) Subject to such conditions and restrictions as the State Government may, by general or special order impose, the Collector may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

(*2*) The Collector may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person to whom he has delegated his powers and duties in respect thereof, and he may likewise transfer any such proceeding (including a proceeding already transferred under this sub-section) from one such person to another to whom the said powers and duties have been delegated or to himself.

Power to make rules.

45. (*1*) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(*a*) the period for return of goods under clause (21) of section 2;

(*b*) the qualifications to be possessed by a member of the Tribunal;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 and sub-section (*4*) of section 10 ;

(*d*) the circumstances in which and the conditions subject to which the Collector may accept a lump sum by way of composition under sub-section (*2*) of section 6 ; and the manner of determining such sum ;

(*e*) the other sales, turnover in respect of which may be deducted from a dealer's turnover in computing his taxable turnover as defined in section 7 and in section 11 ;

(*f*) the period within which, the manner in which and the authority to which application for registration shall be made under section 9 ;

(*g*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-sections (*6*) and (*8*) of that section ;

(*h*) the period within which, the manner in which and the authority to which an application for licence shall be made under section 12 ;

(*i*) the form of licence under section 12 and the period for which and the conditions subject to which a licence shall be granted ;

(*j*) the manner in which and the period for which a licence shall be renewed under section 12 and the fee for grant or renewal of a licence and the manner in which an application for cancellation of a licence shall be made and the date from which cancellation of licence shall take effect under sub-section (*6*) of that section ;

(*k*) the returns to be furnished under section 13 and the dates by which, and the authority to which, such returns shall be furnished and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 13 ;

(*l*) procedure to be followed for assessment under section 14 ;

(*m*) the intervals at which, and the manner in which, the tax shall be payable under section 16 ;

(*n*) the forms of certificate and statement, the manner in which, the authority to which and the period within which such certificate and statement shall be submitted under section 18 ;

(*o*) the manner in which refunds under section 19 shall be made ;

(*p*) conditions subject to which tax may be remitted under section 20 ;

(*q*) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (*4*) of section 21 ;

(*r*) the accounts and forms thereof required by the Collector to be kept under sub-section (*1*) of section 22 and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (*2*) of the said section 22 ;

(*s*) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 23 ;

(*t*) the period within which, the authority to which and the manner in which a declaration shall be sent under section 24 ;

(*u*) the authority to which, and the time within which, information shall be furnished under section 25 ;

(*v*) the period within which a certificate of registration or licence shall be obtained under sub-section (*2*) or sub-section (*3*) of section 26 ;

(*w*) the manner in which, and the authority to which, an appeal against any order under this Act may be preferred under section 30 ;

(*x*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 30 and 31 ;

(*y*) the conditions and the qualifications for the purposes of clause (*c*) of section 43;

(*z*) the manner in which, and the time within which, the applications shall be made, information furnished and notices served, under this Act;

(*za*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Modification in application of Act to district of Amreli.

46. In the application of this Act to the district of Amreli, the foregoing provisions shall be construed subject to the following modifications, namely :—

(*1*) in Schedule I, after entry No. 48, the following shall be added, namely :—

"49. Cloth manufactured in mills or on powerlooms,—

(*i*) made out of cotton yarn only, or

(*ii*) sold at a rate not exceeding rupees two per yard.

50. Sugar.

51. The grocery articles (*Kariana*) which the State Government may, by a notification in the *Official Gazette*, specify.

52. Oil of sesame (*tal*), safflower (*kardi*) and groundnut, when sold without being hydrogenated.

53. Domestic utensils of brass, copper and aluminium.";

(*2*) in Schedule II, the following items shall be deleted, namely :—

"(*i*) Articles (including rubber and other tyres, and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*;

(*ii*) All clocks, time-pieces and watches and parts thereof."

Repeal.

47. (*1*) The Bombay Sales Tax Act, 1946, and in the Third Schedule to the Bombay Merged States (Laws) Act, 1950, all the entries relating to the Bombay Sales Tax Act, 1946, are repealed with effect from the appointed day. Bom. V of 1946. Bom. IV of 1950.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect — Bom. V of 19

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the appointed day;

(*ii*) any legal proceeding or remedy pending in respect of any right, title, interest, obligation or liability or anything done or suffered before the appointed day and any such proceeding shall be continued and disposed of, as if this Act had not been passed;

(*iii*) the recovery of any tax or penalty which may have become payable under any of the Acts so repealed before the appointed day and all such taxes or penalties or arrears thereof shall be recovered, as the case may be, as if this Act had not been passed.

(*3*) Any appointment, notification, notice, order, rule, regulation or form made or issued under any of the enactments hereby repealed shall continue in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, regulation or form is not inconsistent with the provisions of this Act, unless and until it is superseded by an appointment, a notification, notice, order, rule, regulation or form made or issued under this Act.

(*4*) Any reference to the Bombay Sales Tax Act, 1946, contained in the Bombay Sales of Motor Spirit Taxation Act, 1946, shall, with effect from the appointed day, be deemed to be a reference to this Act. Bom. V of 1946. Bom. VI of 1946.

SCHEDULE I.

(*See* SECTION 8.)

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	Agricultural implements worked or operated exclusively by human or animal agency of the following kinds :— Chaff-cutters, harrows ; iron and leather *mhots*, iron ploughs and plough-points ; *rahats* ; sickles ; wooden seed-drills ; pick-axes, shovels and spades.	
2	All cereals and pulses including all forms of rice ...	Except when sold in sealed containers.
3	Artificial silk yarn.	
4	Betel leaves.	
5	Betelnuts.	
6	Bread.	
7	Butter-milk and curds.	
8	Cattle, sheep and goats.	
9	Cattle-feed including fodder, cotton seed and other concentrates.	
10	*Charkha* and other implements used in the production of handspun yarn or handwoven cloth as may be specified by the State Government by notification in the *Official Gazette*.	
11	Cloth woven on handlooms out of mill-spun cotton yarn and sold at a rate not exceeding Rs. 1-8-0 per yard.	
12	Cotton (whether ginned or unginned).	
13	Cotton yarn.	
14	Edible oils manufactured in *ghanis* by human or animal agency.	When sold by such owners of *ghanis* as have been recognised for this purpose by the Collector of Sales Tax.
15	Electrical energy.	
16	Fertilizers.	
17	Firewood and charcoal.	
18	Fish	Except when sold in sealed containers.
19	Flour including *atta*, *maida*, *suji* and bran	Do. do.
20	Flowers.	
21	Food and non-alcoholic drinks consumed at a hotel, restaurant, refreshment room, eating house or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time by one person exceeds Rupee one.

SCHEDULE I—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
22	Fresh eggs.	
23	Fresh fruits.	
24	Fresh milk whole or separated.	
25	Fresh vegetables.	
26	Glass bangles sold at a rate not exceeding As. 2 each.	
27	*Gur*.	
28	Hides and skins of cattle, sheep and goats.	
29	Journals and periodicals published at intervals not exceeding one month.	
30	Kerosene.	
31	*Khaddar* and clothes and other articles of *khaddar* ...	When sold by dealers recognised for this purpose by the Collector of Sales Tax.
32	*Kum-kum*.	
33	Mangalsutra with black glass beads sold at a rate not exceeding Rs. 5 each.	
34	Manures including oilcakes.	
35	Matches.	
36	Meat	Except when sold in sealed containers.
37	Motor spirit, meaning— (*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and (*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid; but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf.	
38	Oilseeds.	
39	Pepper, tamarind, chillies, chilly-powder and turmeric powder.	Except when sold in sealed containers.
40	Quinine and Tincture of iodine.	
41	Raw silk and silk yarn.	
42	Raw wool, wool tops and woollen yarn (other than knitting yarn).	
43	Salt.	
44	Slates and slate pencils; chalk-sticks and crayons; foot-rules, exercise and drawing books, lead pencils and mathematical and drawing instrument boxes used by primary and secondary school students.	
45	Stamp paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
46	Text books sanctioned by the State Government, the Director of Education for the State of Bombay, or the Educational Inspectors of Divisions or approved by the Bombay Municipal Schools Committee.	
47	Tobacco in any form whether manufactured or not.	
48	Water other than aerated and mineral waters.	

SCHEDULE II.

(*See* SECTION 10.)

Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
1	2	3
1. All arms including rifles, revolvers, pistols and ammunition for the same.	One anna in the rupee.	1/17th part.
2. Cinematographic equipment including cameras, projectors, enlargers and sound recording and reproducing equipment; lenses and other parts of and accessories to such equipment, and films, plates, paper and cloth required for use therewith.	Do.	Do.
3. Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.	Do	Do.
4. Foreign liquor as defined in clause (17) of section 2 of the Bombay Prohibition Act, 1949, read with the proviso thereto.	Do.	Do.
5. Iron and steel safes, almirahs and furniture ..	Do.	Do.
6. (*i*) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries.	Do.	Do.
(*ii*) Chasis of Motor vehicles.		
(*iii*) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*.		
7. Refrigerators and air-conditioning plants and parts thereof, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
8. Sound-transmitting equipment including telephones and loud speakers.	Do.	Do.
9. Tabulating, calculating, cash registering, indexing, cardpunching, franking and addressing machines and Adrema machines.	Do.	Do.
10. Typewriters and duplicating and roneo machines and parts and accessories thereof.	Do.	Do.
11. Upholstered furniture	Do.	Do.
12. Wireless reception instruments and apparatus and radio gramophones and component parts thereof including all electrical valves, accumulators, amplifiers, loud speakers.	Do.	Do.
13. All clocks, time-pieces and watches and parts thereof.	Nine pies in the rupee.	3/67th part.
14. All fabrics and articles for personal wear in which the combined weight of silk and synthetic fibre (other than artificial silk) used is more than 50 per cent.	Do.	Do.
15. All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered sold at a rate not less than Rs. 3 per yard and goods made from such fabrics; and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.	Do.	Do.

SCHEDULE II—*contd.*

Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
1	2	3
16. Articles made of ivory, sandalwood or blackwood or inlaid therewith; ornamental metalware with enamelled or carved designs; and gold and silver filigree.	Nine pies in the rupee.	3/67th part.
17. Binoculars and opera glasses	Do.	Do.
18. Cigarette cases and lighters	Do.	Do.
19. Cloth of any kind sold at a rate not less than Rs. 3 per yard.	Do.	Do.
20. Domestic electrical appliances other than torches, torch cells, filament, lighting bulbs and fans.	Do.	Do.
21. Fireworks	Do.	Do.
22. Fountain pens (sold at a rate not less than rupees five each), stylograph pens and propelling pencils.	Do.	Do.
23. Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.	Do.	Do.
24. Glassware, chinaware and domestic pottery but excluding such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
25. Gramophones and component parts thereof and records.	Do.	Do.
26. Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial and cultured.	Do.	Do.
27. Ladies' handbags and vanity bags	Do.	Do.
28. Leather suit cases	Do.	Do.
29. Musical instruments	Do.	Do.
30. Perfumery (excluding synthetic essential oils), cosmetic and toilet articles, except soaps and other articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
31. Photographic and other cameras and enlargers, lenses, and other parts of and accessories to such cameras and enlargers and films, plates, paper and cloth required for use therewith.	Do.	Do.
32. Pile carpets	Do.	Do.
33. Plastic sheets, fabrics and articles made of plastic.	Do.	Do.
34. Playing cards	Do.	Do.
35. Shoes and footwear sold at a rate not less than rupees fifteen per pair.	Do.	Do.
36. Silk cloth and goods made from such cloth (excluding gas mantles).	Do.	Do.
37. Stainless steel sheets and articles made of stainless steel.	Do.	Do.
38. Table cutlery, including knives, forks and spoons.	Do.	Do.
39. Woollen goods excepting— .. (*i*) *kamblis* costing less than Rs. 12 each; and (*ii*) raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
40. Artificial silk yarn	Three pies in the rupee.	1/65th part.
41. Hides and skins of cattle, sheep and goats ..	Do.	Do.
42. Raw silk and silk yarn	Do.	Do.
43. Raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
44. Cotton (whether ginned or unginned) ..	One per cent.	Nil.
45. Cotton seed	Do.	Do.
46. Oil seeds	Do.	Do.

STATEMENT OF OBJECTS AND REASONS.

Under the present Bombay Sales Tax Act, the tax is levied at a single-point at the last stage of sales in the series of transactions which bring the goods into the hands of the consumer. Government has reviewed the working of this system and has found that in spite of the various modifications made from time to time in the present Act, there is considerable leakage of revenue. Government considers that the most effective method of reducing the leakage of revenue, which is detrimental both to the interests of public revenue and of the honest tax-payer, is to change over the present system of tax from the single-point to the multi-point. The latter system has been in force in the State of Madras for a number of years and is in force in many other States also. It is proposed to fix the rate of tax under the multi-point system at such a rate as not to impose any substantial additional burden on the consumers. Instead of levying the tax at half an anna in the rupee on the last sales, it is now proposed to levy a general tax at each stage of sale at three pies in the rupee. Certain goods which are now taxed at one anna at the last stage, will, however, be made liable to an additional tax of nine pies in the rupee (at one anna in some cases), at the first point of sale. An entirely new Bill is accordingly presented incorporating the above and certain other proposals explained in the notes below.

Notes on Clauses.

Clause 2.—This incorporates the definitions. In most cases, they follow the definitions in the old Act. A few additions and modifications have, however, been made to meet the requirements of the new Bill. The important ones are : the definition of dealer which now excludes an agriculturist selling his own produce ; the definitions of "buy" and "purchase" which have become necessary as the tax is levied, in certain cases e.g., under clause 10, and under clause 20, on purchases.

Clauses 3 and 4.—These incorporate sections 3 and 4 of the present Act, and provide for the appointment of Sales Tax Authorities and for the constitution of the Sales Tax Tribunal.

Clause 5.—This specifies the liability of dealers to the general tax.

Clauses 6 to 9.—These incorporate similar provisions from the old Act with suitable changes and provide for the levy of the general tax at 3 pies in the rupee, for determination of the taxable turnover, and for the exemption of certain articles specified in Schedule I from the levy of general tax, and for the registration of dealers liable to tax.

Clause 10.—This is intended to equalise the incidence of tax on stocks purchased by the dealers tax free under the old Act and remaining unsold on the day appointed for bringing the tax into effect.

Clause 11.—This provides for the determination of the liability of dealers to the special tax levied on articles specified in Schedule II, and for the levy thereof at the rates specified in that Schedule.

Clauses 12 and 13.—These provide for the determination of the taxable turnover and for the licensing of dealers liable to the special tax in order to facilitate the collection of that tax.

Clause 14.—This corresponds to clause 10.

Clauses 15 to 19.—These incorporate similar provisions from the old Act and provide for the submission of returns by dealers liable to tax, for their assessment to tax, for assessing turnover of any dealer that has escaped assessment, and for the payment and recovery of tax.

Clause 20.—This is a new provision specially incorporated to prevent the avoidance of tax through a manipulation of sales. Some dealers take wrong advantage of the provisions of Article 286 of the Constitution. They sell or show as having sold, their goods to dealers outside this State while these dealers sell back or show as having sold back, the same goods to consumers in this State. By this method they escape taxation in both the States and carry on unfair competition with honest dealers. Sometimes, the goods do not even leave this State and the manipulations are carried out only in the books of the two dealers by mutual consent. To prevent these malpractices and safeguard public revenues, this clause provides that the tax should be paid by the purchaser of such goods unless he satisfies the Sales Tax authorities that the dealer from whom he has purchased, has already paid or will pay the tax. It is proposed to apply this clause to only such goods in respect of which the malpractices described above, have become very common.

Clauses 21 and 22.—Clause 21 incorporates similar provisions of the old Act and provides for refunds or adjustments of amounts paid in excess, while clause 22, which is new, provides for remission of tax in the case of dealers who have suffered financially through natural calamities like floods, earthquake, etc. or through riots.

Clause 23.—This is based on a similar section in the old Act, and prohibits the collection of amount by dealers by way of tax on exempted goods or by dealers who are themselves not liable to pay the tax under this Bill. Sub-clause (3) provides that every dealer whose total annual turnover is more than Rs. 60,000 must issue a bill or cash memorandum in respect of all goods sold by him. This is intended to prevent evasion of tax by the dealers by omitting to issue bills or cash memo and thereby suppressing their sales. Sub-clause (4) provides penalties for contravention of sub-clauses (1) and (2). A new sub-clause has been added to levy in addition to any prosecution that may be launched, a penalty limited to Rs. 100 in the case of each offence in respect of dealers who fail to issue a bill or a cash memo.

Clauses 24 to 29.—These incorporate similar provisions from the old Act and provide for the liability of dealers for production of accounts, for supplying the required information to the Sales Tax authorities and for paying the tax in the case of transfer of business and cancellation of registration and licence.

Clauses 30 to 37.—These also incorporate similar provisions from the old Act and relate to the determination of any questions arising in the working of the Act and to the proceedings before the Collector, the Tribunal and the High Court. They also lay down the procedure regarding the revision and appeals, and the extension of the period of limitation in certain cases.

Clause 38.—This clause also incorporates similar provision from the old Act and empowers the Collector and the Tribunal to rectify mistakes, subject to certain conditions, in the orders passed by them.

Clauses 39 to 42.—These relate to offences and penalties and the compounding of offences in certain cases. They follow similar provisions in the old Act.

Clauses 43 to 48.—These are miscellaneous provisions all of which are incorporated from similar provisions in the old Act. They provide for the declaration of the Sales Tax authorities and the Tribunal, as public servants for purposes of Indian Penal Code and indemnify Government servants acting under the Act from any proceedings for anything done by them in good faith. Clause 45 provides that all returns, statements and documents, furnished by the dealers to the Sales Tax authorities should be treated as confidential. Exception is, however, made in the case of the income-tax authorities. In their case it is necessary to exchange information, as the income-tax authorities are also permitted to supply information to the sales tax authorities so that a proper enforcement of both the Sales Tax Act and the Income-tax Act is achieved. Clause 46 prescribes the manner in which a person shall appear before any authority in connection with the proceedings under the Bill, while clause 47 provides for the delegation of the powers of the Collector under the Act to his subordinate officers, subject to such conditions and restrictions as Government may impose. Clause 48 is the usual clause which enables Government to make rules for the purpose of working and enforcing the different provisions of the Bill.

Clause 49.—This clause includes the modifications made in the Bombay Sales Tax Act, 1946, in its application to the Amreli District. As Amreli is surrounded by the territories of the Saurashtra State, and the rate and basis of sales tax in that State differ materially from those prevailing in the State of Bombay, these modifications were made in 1950 with a view to remove the hardships of the dealers in that district. The provisions of this clause incorporate, with slight modification, similar provisions in the old Act in its application to the district of Amreli.

Clause 50.—This provides for the repeal of the Bombay Sales Tax Act, 1946, subject to the usual conditions regarding the continuation of liabilities, rights, obligations etc., arising out of the old Act.

Dated the 14th July 1952. JIVRAJ N. MEHTA.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXIX OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

(As read for the third time and passed with amendments by the Legislative Council on the 16th August 1952.)

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

[Dr. JIVRAJ N. MEHTA, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXIX OF 1952.

A Bill to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

(As read for the third time and passed with amendments by the Legislative Council on the 16th August 1952.)

(Amendments made by the Legislative Council were agreed to by the Legislative Assembly on the 19th August 1952.)

WHEREAS it is expedient to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint :

Provided that in its application to the district of Amreli the provisions thereof shall until the State Government by notification in the *Official Gazette* directs otherwise, be construed subject to the modifications specified in section 46.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) " agriculture " with its grammatical variations includes horticulture, the raising of crops, grass or garden produce, and grazing, but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood ;

(*2*) " agriculturist " means a person who cultivates land personally ;

(*3*) " appointed day " means the day which the State Government may by notification in the *Official Gazette* specify as the appointed day for the purposes of sections 5, 9, 10 and 47 ;

(*4*) "to cultivate" with its grammatical variations and cognate expressions means to carry on any agricultural operation;

(*5*) "to cultivate personally" means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of one's own family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

Explanation II.—In the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family;

(*6*) "Collector" means the Collector of Sales Tax appointed under section 3;

(*7*) "dealer" means any person who carries on the business of selling goods in the State of Bombay, whether for commission, remuneration or otherwise and includes a State Government which carries on such business and any society, club or association which sells goods to its members;

Explanation.—The manager or agent of a dealer who resides outside the State of Bombay and carries on the business of selling goods in the State of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act;

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause;

(*8*) "general tax" means the tax leviable under section 5;

(*9*) "goods" means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities;

(*10*) "licensed dealer" means a dealer who holds a licence granted under section 12;

(*11*) "prescribed" means prescribed by rules;

(*12*) "registered dealer" means a dealer registered under section 9;

(*13*) "rules" means rules made under this Act;

(*14*) "sale" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes any supply by a society, a club, or an association to its members on payment of price or on fees or subscription but does not include a mortgage, hypothecation, charge or pledge; the words "buy" and "purchase" shall be construed accordingly;

III of 1930.

Explanations.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930—

(*1*) an agreement for hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller, pending the payment of the entire amount of the price or any part thereof, retains property in the goods as security for the payment of the price, be deemed to be a sale made on the date of such agreement ;

(*2*) the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State, shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State ;

(*15*) "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged ;

(*16*) "Schedule" means a schedule appended to this Act ;

(*17*) "special goods" means goods specified in column 1 of Schedule II ;

(*18*) "special tax" means the tax leviable under section 10 ;

(*19*) "tax" means the general tax, special tax or purchase tax payable under the provisions of this Act ;

(*20*) "Tribunal" means the Tribunal constituted under section 4 ;

(*21*) "turnover" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period ; and

(*22*) "year" means the financial year.

CHAPTER II.

Sales-tax Authorities and Tribunal.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the State Government may appoint any person to be a Collector of Sales Tax, and such other persons to assist him as the State Government thinks fit.

(*2*) A person appointed under sub-section (*1*) shall, within the limits of the area specified to be within his jurisdiction, exercise such powers as may be conferred and perform such duties as may be imposed on him by or under this Act.

Tribunal.

4. (*1*) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act.

(*2*) The Tribunal shall consist of not more than three persons possessing such qualifications as may be prescribed.

(*3*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.

(*4*) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(*5*) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and the disposal of its business.

(*6*) The regulations made under sub-section (*5*) shall be published in the *Official Gazette*.

CHAPTER III.

General Tax.

General Tax.

5. (*1*) Subject to the provisions of section 8, every dealer—

(*a*) whose turnover in respect of all sales made within the State of Bombay during any of the three consecutive years immediately preceding the first day of April 1952, has exceeded Rs. 30,000, or

(*b*) whose turnover in respect of such sales exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay the general tax at the rate specified in sub-section (*1*) of section 6 on his turnover in respect of sales of goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply but clause (*b*) applies shall not be liable to pay the general tax in respect of his turnover up to Rs. 30,000, as computed from the first day of April 1952.

(*2*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the general tax from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay, exceeds the limit specified in the said sub-section :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*3*) Every dealer who has become liable to pay the general tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) ; and such further period after the date of such expiry as may be prescribed and on the expiry of the latter period his liability to pay the general tax shall cease.

(*4*) Every dealer whose liability to pay the general tax has ceased under the provisions of sub-section (*3*) shall again be liable to pay the said tax with effect from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay again exceeds the limits specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (*1*).

(*5*) The general tax payable by a dealer under this section shall be in addition to the tax payable on special goods under section 10.

Levy and rate of general tax.

6. (*1*) The general tax payable by a dealer shall be levied at the rate of three pies in the rupee on his taxable turnover in respect of sales of goods :

Provided that the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer in respect of sales of bullion or specie at the rate of one-fourth per cent.

(*2*) The Collector may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period a lump sum by way of composition determined in the prescribed manner.

Taxable turnover for purpose of general tax.

7. The taxable turnover for the purposes of sub-section (*1*) of section 6 shall be determined in the following manner, namely :—

(*i*) From the turnover of the dealer in respect of all his sales of goods during any period of his liability to pay the general tax, there shall first be deducted his turnover during that period in respect of—

(*a*) sales of any goods declared from time to time as tax free under section 8, and

(*b*) such other sales as may be prescribed.

(*ii*) From that part of the balance remaining after making deductions under clause (i) which is in respect of sales of goods other than bullion and specie, there shall be deducted one-sixty-fifth part of such balance.

(*iii*) The balance remaining after making deductions under clauses (*i*) and (*ii*) shall be the taxable turnover for the purposes of sub-section (*1*) of section 6.

Goods free from general tax.

8. (*1*) No general tax shall be payable on the sales of goods specified in column 1 of Schedule I subject to the conditions and exceptions, if any, set out in the corresponding entry in column 2 thereof.

(*2*) The State Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification make additions, variations or omissions to or in the said Schedule or add to, vary or omit any of the conditions or exceptions, specified in the said Schedule, and thereupon the said Schedule shall be deemed to have been amended accordingly.

Registration of dealers.

9. (*1*) No dealer shall, while being liable to pay the general tax, carry on business as a dealer unless he has applied for registration within such period as may be prescribed :

Provided that for the purposes of this sub-section the turnover shall be calculated without making the deductions referred to in section 7.

(*2*) Every dealer required by sub-section (*1*) to apply for registration shall make an application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(*4*) The prescribed authority may, from time to time, amend any certificate of registration after considering the information furnished under section 25 or otherwise received.

(*5*) When any dealer has been convicted under section 36 or has paid composition money under section 39 in respect of any contravention of sub-section (*1*), the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (*3*) on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of three consecutive years failed to exceed the limit specified in sub-section (*1*) of section 5 and the dealer has applied in the prescribed manner for cancellation of his registration,

the prescribed authority shall cancel the registration with effect from the prescribed date.

Bom. V of 1946.

(*7*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force, immediately prior to the appointed day and to whom sub-section (*1*)

of section 5 applies, shall notwithstanding anything contained in sub-section (*2*) be deemed to be duly registered under sub-section (*3*).

(*8*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force immediately prior to the appointed day and to whom sub-section (*1*) of section 5 does not apply, shall apply in the prescribed manner to the prescribed authority for cancellation of his registration, and the said authority shall cancel his registration with effect from the prescribed date. Bom. V of 1946.

CHAPTER IV.

Special Tax.

Incidence and rate of special tax.

10. (*1*) Every dealer whose turnover in respect of all sales of special goods made within the State of Bombay—

(*a*) has exceeded Rs. 5,000 during the year ended on the thirty-first day of March 1952, or

(*b*) exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay a special tax at the rate specified against them in column 2 of Schedule II on his taxable turnover in respect of sales of special goods made on or after the appointed day :

Provided that a dealer to whom clause (*a*) does not apply, but clause (*b*) applies shall not be liable to pay the special tax in respect of such turnover up to Rs. 5,000 as computed from the first day of April 1952.

(*2*) The special tax payable by a dealer under this section shall be paid in addition to the general tax, if any, payable by such dealer under section 5.

(*3*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay the special tax under this section with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*4*) Every dealer who has become liable to pay the special tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales of special goods made within the State of Bombay has failed to exceed the limit specified in sub-section (*1*) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the special tax shall cease.

(*5*) Every dealer whose liability to pay the special tax has ceased under the provisions of sub-section (*4*) shall again be liable to pay the special tax with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay again exceeds the limit specified in sub-section (*1*) :

Provided that such dealer shall not be liable to pay the special tax under this section during such year in respect of such turnover up to the limit specified in sub-section (*1*).

(*6*) The State Government may by notification in the *Official Gazette* omit any of the entries in Schedule II or part thereof or reduce the rate of tax specified in the second column or vary the deduction specified in the third column thereof in respect of any of the said entries or parts thereof.

11. The taxable turnover for the purposes of sub-section (*1*) of section 10 shall be determined in the following manner, namely :— Taxable turnover for purposes of special tax.

(*i*) From the turnover of the dealer in respect of all his sales of special goods during any period of his liability to pay the special tax, there shall first be deducted his turnover in respect of—

(*a*) sales of special goods purchased by him on or after the appointed day at a place in the State of Bombay from a dealer holding a licence under section 12, provided that such goods have not been processed or altered by him in any manner;

(*b*) such other sales as may be prescribed.

Explanation.—If a dealer liable to pay the special tax transfers the ownership of the whole or any part of his business, the stock of goods transferred along with such business shall not for the purposes of clause (*a*) be deemed to be purchased by the transferee.

(*ii*) From the balance remaining after making deductions under clause (*i*), there shall be deducted such part of the balance as is specified in column 3 of Schedule II against each of the special goods and the remainder shall be the taxable turnover for the purposes of sub-section (*1*).

12. (*1*) No dealer shall, while being liable to pay the special tax, carry on business as such dealer unless he has applied for a licence within such period as may be prescribed: Dealer to obtain licence.

Provided that for the purposes of this sub-section the turnover in respect of all sales of special goods made within the State of Bombay shall be calculated without making the deductions referred to in section 11.

(*2*) Every dealer required by sub-section (*1*) to apply for a licence shall make an application in that behalf to the prescribed authority in the prescribed manner.

(*3*) If the prescribed authority is satisfied that an application for licence is in order, it shall grant a licence to the applicant in such form and for such period and subject to such conditions as may be prescribed.

(*4*) Any licence granted under sub-section (*3*) shall from time to time be renewable in the prescribed manner for such period as may be prescribed.

(*5*) A licence under this section shall be granted or renewed on payment of such fee not exceeding Rs. 5 as may be prescribed.

(*6*) When—

(*a*) any business in respect of which a licence has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of the three consecutive years failed to exceed Rs. 5,000 and the licensed dealer has applied in the prescribed manner for cancellation of his licence,

the prescribed authority shall cancel the licence with effect from the prescribed date.

CHAPTER V.

Returns, assessment, payment, recovery and refund of the tax and levy of tax on purchases.

Returns.

13. (*1*) Every registered dealer and every licensed dealer and every other dealer as may be required so to do by the Collector by notice served in the prescribed manner shall furnish such returns by such dates and to such authority as may be prescribed :

Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct.

(*2*) If any dealer having furnished returns under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return before the expiry of three months next following the period to which such return relates.

Assessment of taxes.

14. (*1*) The amount of the tax due from a registered or a licensed dealer shall be assessed separately for each year during which he is liable to pay the tax :

Provided that when a dealer has failed to furnish any return relating to any period in a year by the prescribed date, the Collector may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year :

Provided further that the Collector may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

(*2*) If the Collector is satisfied without requiring the presence of a dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of the tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns or such other evidence as may be specified in such notice.

(*b*) On the date specified in the notice or as soon afterwards as may be, the Collector shall, after considering such evidence as the dealer may produce and such other evidence as the Collector may require on specified points assess the amount of the tax due from the dealer.

(*4*) If a dealer having furnished returns in respect of a period fails to comply with the terms of the notice issued under sub-section (*3*), the Collector shall assess, to the best of his judgment, the amount of the tax due from the dealer.

(*5*) If a dealer does not furnish returns in respect of any period by the prescribed date, the Collector shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer.

(*6*) If upon information which has come into his possession, the Collector is satisfied that any dealer has been liable to pay the tax in respect of any period but has failed to apply for registration or licence, the Collector shall, after giving the

dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration or for the grant of a licence, the Collector may direct the dealer to pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment.

15. If in consequence of any information which has come into his possession the Collector is satisfied that any turnover in respect of sales of any goods chargeable to the tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom, the Collector may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or has knowingly furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (3) of section 14 and may proceed to assess or re-assess the amount of the tax due from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section :

Provided that the amount of the tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be :

Provided further that where in respect of such turnover or deduction, as the case may be, an order has already been passed under section 30 or section 31, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

Payment and recovery of tax.

16. (1) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered or licensed dealer furnishes the returns required by sub-section (1) of section 13, he shall, in the prescribed manner, pay into a Government treasury the full amount of the tax due from him under this Act according to such returns.

(3) Before any registered dealer or licensed dealer furnishes a revised return in accordance with sub-section (2) of section 13 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of the tax.

(4) If the tax payable under this Act is not paid by any dealer within the prescribed time, the dealer shall pay, by way of penalty in addition to the amount of tax, a sum equal to three-fourths per cent. of the amount of the tax for every month after the expiry of the prescribed period during which he continues to make default in the payment of the tax.

(5) (i) The amount of tax—

(a) due where the returns are furnished without full payment thereof, or

(b) assessed for any period under section 14 or under section 15 less the sum, if any, already paid by the dealer in respect of such period, or

(ii) the amount of the penalty payable under sub-section (4),

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Collector for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Collector may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(6) Any amount of the tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (5) shall be recoverable as an arrear of land revenue.

Special mode of recovery.

17. (1) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Collector, require—

(a) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (5) of section 16 or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of the tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

(2) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

18. (*1*) In the case of such goods, as may be notified by the State Government in the *Official Gazette* from time to time, which have been despatched or brought from any place in India outside the State of Bombay and are actually delivered as a direct result of a sale to a buyer in the State of Bombay for consumption therein, the buyer shall be liable to pay the tax on the purchase of such goods at the rate of three pies in the rupee and if such goods are special goods he shall also be liable to pay an additional tax at the rate specified in column 2 of Schedule II, unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer or a licensed dealer, as the case may be, and shall pay the tax on such sale in due course. Purchase tax.

(*2*) Every buyer to whom sub-section (*1*) applies, shall furnish the prescribed authority with a statement in the prescribed form within the prescribed time regarding such purchases by him and shall also pay the tax in the prescribed manner, or produce a declaration of the seller, if any.

(*3*) The provisions of sub-sections (*5*) and (*6*) of section 16, and the provisions of section 17 shall apply to any amount of the tax payable under this section.

19. The Collector shall, in the prescribed manner, refund to a registered dealer or licensed dealer applying in this behalf any amount of the tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer by deduction of such excess from the amount of the tax due in respect of any other period: Refunds.

Provided that no claim to refund of the tax paid under this Act shall be allowed unless it is made within 24 months from the date on which the order of assessment was passed or within 12 months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later:

Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (*5*) of section 16 may have been issued and shall then refund the balance remaining, if any.

20. The Collector may, subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable under this Act in respect of any period by any registered or licensed dealer who has suffered financially on account of riots or through natural calamities: Remission of taxes.

Provided that if the amount to be remitted exceeds Rs. 2,000 the remission shall not be made without the previous sanction of the State Government.

21. (*1*) No person shall collect any amount by way of general tax under this Act in respect of sales of any goods which are declared, from time to time, under section 8 as sales on which such tax is not payable. Prohibition against collection of tax in certain cases.

(*2*) No person selling any goods shall collect from the purchaser any amount by way of the tax unless he is a registered dealer or a licensed dealer and is liable to pay the tax under this Act in respect of such sale:

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose turnover in respect of all sales made within the State of Bombay exceeds Rs. 60,000 in a year shall issue a bill or cash memorandum in respect of all goods sold by him, and every licensed dealer shall issue a bill or cash memorandum in respect of any special goods sold by him, signed and dated by him or his servant, manager or agent, to the purchaser in respect of the goods sold by him showing the particulars of the goods and the price at which the goods are sold and shall keep the counterfoil or duplicate of

such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years from such date.

(*4*) If any person collects any amount by way of the tax in contravention of the provisions of sub-section (*1*) or (*2*) or if any registered dealer or licensed dealer collects any amount by way of the tax in excess of the amount payable by him under this Act, the amounts so collected shall, without prejudice to any prosecution that may be instituted against such person or dealer for any offence under this Act, be forfeited to the State Government and such person or dealer, as the case may be, shall, within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.

(*5*) If any person to whom sub-section (*3*) applies contravenes the provisions of the said sub-section, then without prejudice to any prosecution that may be instituted against such person, he shall be liable to a fine equal to double the amount of the bill or cash memorandum in respect of which such contravention has occurred or Rs. 100, whichever is less.

CHAPTER VI.

Liability to produce accounts, to supply information and to pay the tax in the case of transfer of business, and cancellation of certificate of registration or licence.

Accounts.

22. (*1*) Every registered dealer and every licensed dealer or any person liable to pay the tax under this Act and every other dealer who is required so to do by the Collector by notice served in the prescribed manner shall keep a true account of the value of the goods bought and sold by him, and if the Collector considers that such account is not sufficiently clear and intelligible to determine whether or not such dealer or any person is liable to pay the tax during any period under this Act, or to make a proper scrutiny of the returns or statements furnished by him, the Collector may require such dealer or person by notice in writing to keep such accounts (including records of sales or purchases) necessary for the purposes of proper assessment as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(*2*) The Collector may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

Production and inspection of accounts and documents, and search of premises.

23. (*1*) The Collector may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer or any other information, relating to his business as may be necessary for the purposes of this Act.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Collector and the Collector may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(*3*) If the Collector has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*), the Collector may enter and search any place of business or warehouse of any dealer or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business.

(*5*) The provisions of sub-sections (*1*) to (*4*) shall also apply *mutatis mutandis* in the case of persons liable to pay the tax under section 18.

Dealer to declare the name of manager of his business.

24. Every dealer, who is liable to pay the tax under this Act and who is an undivided Hindu family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

Information to be furnished regarding changes of business.

25. If any dealer to whom the provisions of this Act apply—

(*a*) sells or otherwise disposes of his business or any part of his business, or effects or comes to know of any other change in the ownership of the business, or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods sold by him,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

26. (*1*) When the ownership of the business of a dealer liable to pay the tax under this Act is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee, as if he were the dealer liable to pay such tax; and the transferee shall also be liable to pay tax under this Act on the sales of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration or licence, as the case may be, unless he already holds a certificate of registration or a licence, as the case may be.

(*2*) When a dealer liable to pay the tax under this Act transfers the ownership of a part of his business the transferor shall be liable to pay the tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods have been sold by him, unless the transferee holds a certificate of registration or licence, as the case may be, or obtains it within the prescribed period.

(*3*) (*i*) When a firm liable to pay the tax under this Act is dissolved, or

(*ii*) where an undivided Hindu family liable to pay tax under this Act is partitioned, such firm or family, as the case may be, shall be liable to pay tax under this Act on the goods allotted to any partner or member thereof as if the goods had been sold to such partner or member unless he holds a certificate of registration or a licence, as the case may be, or obtains it within the prescribed period.

(*4*) When a dealer to whom a part of the business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, or an undivided Hindu family which is partitioned, obtains a certificate of registration or a licence, as the case may be, he shall be liable to pay the tax on the turnover in respect of sales of goods made by him with effect from the date of such transfer of business, discontinuance or dissolution of the partnership, or the partition of the family, as the case may be.

CHAPTER VII.

Proceedings.

Power of Collector to determine disputes.

27. If any question arises otherwise than in a proceeding before a court whether or not, for the purposes of this Act,—

(*a*) any person, society, club or association, firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale, or

(*c*) any particular dealer is liable to registration or required to take a licence, or

(*d*) any tax is payable in respect of any particular sale,

the Collector shall make an order determining such question :

Provided that the Collector may in any such order direct that any such determination shall not affect the liability of any dealer under this Act in respect of any sale effected prior to the date of any such determination :

Provided further that if any such question arises from any order already passed under this Act, no proceeding shall be entertained for the determination under this section, but such question may be raised in any appeal or application for revision against such order, which lies under section 30 or 31.

Powers of Tribunal and Collector.

28. For the purposes of this Act,—

(*1*) the Tribunal and the Collector shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses ;

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Collector may administer the oath to the deponent.

Bar to certain proceedings.

29. Save as is provided by section 31, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided by sections 30 and 31 no appeal or application for revision shall lie against any such assessment or order.

Appeal.

30. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such assessment or other order :

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of the tax including penalty, if any, or on proof of payment of such smaller amount as it may direct.

(*2*) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think fit.

(*3*) Every order passed in appeal under this section shall subject to the provisions of sections 31, 34 and 35, be final.

Revision.

31. (*1*) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(*2*) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(*3*) Where a person could have appealed under section 30, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

32. In computing the period laid down under sections 30 and 31 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.

IX of 1908.

Extension of period of limitation in certain cases.

33. The prescribed authority may admit any appeal under section 30 and the Collector and the Tribunal may admit an application under section 31, after the period of limitation laid down in the said sections if the appellant or the applicant, as the case may be, satisfies the prescribed authority, the Collector or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application within such period.

Statement of case to High Court.

34. (*1*) Within ninety days from the passing by the Tribunal of any order under sub-section (*2*) of section 30 or sub-section (*1*) of section 31 affecting any liability of any dealer to pay tax under this Act, such person or the Collector may, by application in writing accompanied where the application is made by any person (other than the Collector) by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(*2*) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

(*a*) withdraw his application, or

(*b*) apply to the High Court against such refusal

and in the case of withdrawal under clause (*a*), the fee, if any, paid under sub-section (*1*) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (1)) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 19.

Rectification of mistakes.

35. (1) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer:

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Collector has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under section 30 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax, the Collector shall in the prescribed manner refund any amount due to the dealer.

(4) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Collector shall recover the amount due from the dealer in the manner provided for in section 16.

CHAPTER VIII.

Offences and Penalties.

36. Whoever—

(a) carries on business as a dealer without applying for registration or grant or renewal of licence in contravention of section 9, 12 or 26, or

(b) fails without sufficient cause, to furnish any return or statement as required by section 13 or 18 or knowingly furnishes a false return or statement; or

(*c*) not being a licensed dealer under section 12 falsely represents that he has been or was a licensed dealer at the time when he sells or sold any special goods ; or

(*d*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 21 ; or

(*e*) fails to keep a true account of the value of the goods bought and sold by him as required by section 22, or fails, when directed so to do under that section to keep any accounts or records in accordance with the direction ; or

(*f*) fails to comply with any requirement made of him under section 23 ; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 23 ; or

(*i*) neglects to furnish any information required by section 25 ; or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*) ;

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both ; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

Cognizance of offences.

37. (*1*) No court shall take cognizance of any offence punishable under section 36 or under any rules made under this Act, except with the previous sanction of the Collector and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

V of 1898.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

Investigation of offences.

38 (*1*) Subject to such conditions as may be prescribed, the Collector may authorise any persons appointed under section 3 to assist him to investigate all offences punishable under this Act.

V of 1898.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

Compounding of offences.

39. (*1*) The Collector may, either before or after the institution of proceedings for any offence punishable under section 36 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged is under clause (*a*), (*b*), (*c*), (*e*) or (*g*) of section 36, not exceeding double the amount of tax which would have been payable on the sale or turnover to which the said offence relates, whichever is greater.

(*2*) On payment of such sum as may be determined by the Collector under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER IX.

Miscellaneous.

Persons appointed under section 3 and members of Tribunal to be public

XLV of 1860.

40. All persons appointed under section 3 and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Indemnity.

41. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

42. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*), (*a*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act, or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purpose of the said Act, or (*c*) to any authority acting in exercise of the powers conferred on it by any law of a State imposing a tax on the sale or purchase of goods where it is necessary to disclose the same to such authority for the purposes of the said law. XLV of 1860. XI of 1922.

Appearance before any authority in proceedings.

43. Any person, who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

Delegation of powers and duties and transfer of proceedings.

44. (*1*) Subject to such conditions and restrictions as the State Government may, by general or special order impose, the Collector may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

(*2*) The Collector may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person to whom he has delegated his powers and duties in respect thereof, and he may likewise transfer any such proceeding (including a proceeding already transferred under this sub-section) from one such person to another to whom the said powers and duties have been delegated or to himself.

Power to make rules.

45. (*1*) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(*a*) the period for return of goods under clause (21) of section 2 ;

(*b*) the qualifications to be possessed by a member of the Tribunal ;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 and sub-section (*4*) of section 10;

(*d*) the circumstances in which and the conditions subject to which the Collector may accept a lump sum by way of composition under sub-section (*2*) of section 6; and the manner of determining such sum;

(*e*) the other sales, turnover in respect of which may be deducted from a dealer's turnover in computing his taxable turnover as defined in section 7 and in section 11;

(*f*) the period within which, the manner in which and the authority to which application for registration shall be made under section 9;

(*g*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-sections (*6*) and (*8*) of that section;

(*h*) the period within which, the manner in which and the authority to which an application for licence shall be made under section 12;

(*i*) the form of licence under section 12 and the period for which and the conditions subject to which a licence shall be granted;

(*j*) the manner in which and the period for which a licence shall be renewed under section 12 and the fee for grant or renewal of a licence and the manner in which an application for cancellation of a licence shall be made and the date from which cancellation of licence shall take effect under sub-section (*6*) of that section;

(*k*) the returns to be furnished under section 13 and the dates by which, and the authority to which, such returns shall be furnished and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 13;

(*l*) procedure to be followed for assessment under section 14;

(*m*) the intervals at which, and the manner in which, the tax shall be payable under section 16;

(*n*) the forms of certificate and statement, the manner in which, the authority to which and the period within which such certificate and statement shall be submitted under section 18;

(*o*) the manner in which refunds under section 19 shall be made;

(*p*) conditions subject to which tax may be remitted under section 20;

(*q*) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (*4*) of section 21;

(*r*) the accounts and forms thereof required by the Collector to be kept under sub-section (*1*) of section 22 and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (*2*) of the said section 22;

(*s*) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 23;

(*t*) the period within which, the authority to which and the manner in which a declaration shall be sent under section 24;

(*u*) the authority to which, and the time within which, information shall be furnished under section 25;

(*v*) the period within which a certificate of registration or licence shall be obtained under sub-section (*2*) or sub-section (*3*) of section 26;

(*w*) the manner in which, and the authority to which, an appeal against any order under this Act may be preferred under section 30;

(*x*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 30 and 31;

(*y*) the conditions and the qualifications for the purposes of clause (*c*) of section 43 ;

(*z*) the manner in which, and the time within which, the applications shall be made, information furnished and notices served, under this Act ;

(*za*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Modification in application of Act to district of Amreli.

46. In the application of this Act to the district of Amreli, the foregoing provisions shall be construed subject to the following modifications, namely :—

(*1*) in Schedule I, after entry No. 48, the following shall be added, namely :—

"49. Cloth manufactured in mills or on powerlooms,—

(*i*) made out of cotton yarn only, or

(*ii*) sold at a rate not exceeding rupees two per yard.

50. Sugar.

51. The grocery articles (*Kariana*) which the State Government may, by a notification in the *Official Gazette*, specify.

52. Oil of sesame (*tal*), safflower (*kardi*) and groundnut, when sold without being hydrogenated.

53. Domestic utensils of brass, copper and aluminium." ;

(*2*) in Schedule II, the following items shall be deleted, namely :—

"(*i*) Articles (including rubber and other tyres, and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette* ;

(*ii*) All clocks, time-pieces and watches and parts thereof."

Repeal.

47. (*1*) The Bombay Sales Tax Act, 1946, and in the Third Schedule to the Bombay Merged States (Laws) Act, 1950, all the entries relating to the Bombay Sales Tax Act, 1946, are repealed with effect from the appointed day. Bom. V of 1946. Bom. IV of 1950.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect — Bom. V of 1944

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the appointed day ;

(*ii*) any legal proceeding or remedy pending in respect of any right, title, interest, obligation or liability or anything done or suffered before the appointed day and any such proceeding shall be continued and disposed of, as if this Act had not been passed ;

(*iii*) the recovery of any tax or penalty which may have become payable under any of the Acts so repealed before the appointed day and all such taxes or penalties or arrears thereof shall be recovered, as the case may be, as if this Act had not been passed.

(*3*) Any appointment, notification, notice, order, rule, regulation or form made or issued under any of the enactments hereby repealed shall continue in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, regulation or form is not inconsistent with the provisions of this Act, unless and until it is superseded by an appointment, a notification, notice, order, rule, regulation or form made or issued under this Act.

(*4*) Any reference to the Bombay Sales Tax Act, 1946, contained in the Bombay Sales of Motor Spirit Taxation Act, 1946, shall, with effect from the appointed day, be deemed to be a reference to this Act. Bom. V of 1946. Bom. VI of 1946.

SCHEDULE I.

(*See* SECTION 8.)

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	Agricultural implements worked or operated exclusively by human or animal agency of the following kinds :— Chaff-cutters, harrows ; iron and leather *mhots*, iron ploughs and plough-points ; *rahats* ; sickles ; wooden seed-drills ; pick-axes, shovels and spades.	
2	All cereals and pulses including all forms of rice ...	Except when sold in sealed containers.
3	Artificial silk yarn.	
4	Betel leaves.	
5	Betelnuts.	
6	Bread.	
7	Butter-milk and curds.	
8	Cattle, sheep and goats.	
9	Cattle-feed including fodder, cotton seed and other concentrates.	
10	*Charkha* and other implements used in the production of handspun yarn or handwoven cloth as may be specified by the State Government by notification in the *Official Gazette*.	
11	Cloth woven on handlooms out of mill-spun cotton yarn and sold at a rate not exceeding Rs. 1-8-0 per yard.	
12	Cotton (whether ginned or unginned).	
13	Cotton yarn.	
14	Edible oils manufactured in *ghanis* by human or animal agency.	When sold by such owners of *ghanis* as have been recognised for this purpose by the Collector of Sales Tax.
15	Electrical energy.	
16	Fertilizers.	
17	Firewood and charcoal.	
18	Fish	Except when sold in sealed containers.
19	Flour including *atta*, *maida*, *suji* and bran	Do. do.
20	Flowers.	
21	Food and non-alcoholic drinks consumed at a hotel, restaurant, refreshment room, eating house or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time by one person exceeds Rupee one.

SCHEDULE I—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
22	Fresh eggs.	
23	Fresh fruits.	
24	Fresh milk whole or separated.	
25	Fresh vegetables.	
26	Glass bangles sold at a rate not exceeding As. 2 each.	
27	*Gur.*	
28	Hides and skins of cattle, sheep and goats.	
29	Journals and periodicals published at intervals not exceeding one month.	
30	Kerosene.	
31	*Khaddar* and clothes and other articles of *khaddar* ...	When sold by dealers recognised for this purpose by the Collector of Sales Tax.
32	*Kum-kum.*	
33	Mangal sutra with black glass beads sold at a rate not exceeding Rs. 5 each.	
34	Manures including oilcakes.	
35	Matches.	
36	Meat	Except when sold in sealed containers.
37	Motor spirit, meaning— (*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and (*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid; but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf.	
38	Oilseeds.	
39	Pepper, tamarind, chillies, chilly-powder and turmeric powder.	Except when sold in sealed containers.
40	Quinine and Tincture of iodine.	
41	Raw silk and silk yarn.	
42	Raw wool, wool tops and woollen yarn (other than knitting yarn).	
43	Salt.	
44	Slates and slate pencils; chalk-sticks and crayons; foot-rules, exercise and drawing books, lead pencils and mathematical and drawing instrument boxes used by primary and secondary school students.	
45	Stamp paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
46	Text books sanctioned by the State Government, the Director of Education for the State of Bombay, or the Educational Inspectors of Divisions or approved by the Bombay Municipal Schools Committee.	
47	Tobacco in any form whether manufactured or not.	
48	Water other than aerated and mineral waters.	

SCHEDULE II.

(*See* SECTION 10.)

	Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
	1	2	3
1.	All arms including rifles, revolvers, pistols and ammunition for the same.	One anna in the rupee.	1/17th part.
2.	Cinematographic equipment including cameras, projectors, enlargers and sound recording and reproducing equipment; lenses and other parts of and accessories to such equipment, and films, plates, paper and cloth required for use therewith.	Do.	Do.
3.	Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.	Do	Do.
4.	Foreign liquor as defined in clause (17) of section 2 of the Bombay Prohibition Act, 1949, read with the proviso thereto.	Do.	Do.
5.	Iron and steel safes, almirahs and furniture ..	Do.	Do.
6.	(*i*) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries. (*ii*) Chasis of Motor vehicles. (*iii*) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
7.	Refrigerators and air-conditioning plants and parts thereof, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
8	Sound-transmitting equipment including telephones and loud speakers.	Do.	Do.
9.	Tabulating, calculating, cash registering, indexing, cardpunching, franking and addressing machines and Adrema machines.	Do.	Do.
10.	Typewriters and duplicating and ronco machines and parts and accessories thereof.	Do.	Do.
11.	Upholstered furniture	Do.	Do.
12.	Wireless reception instruments and apparatus and radio gramophones and component parts thereof including all electrical valves, accumulators, amplifiers, loud speakers.	Do.	Do.
13.	All clocks, time-pieces and watches and parts thereof.	Nine pies in the rupee.	3/67th part.
14.	All fabrics and articles for personal wear in which the combined weight of silk and synthetic fibre (other than artificial silk) used is more than 50 per cent.	Do.	Do.
15.	All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered sold at a rate not less than Rs. 3 per yard and goods made from such fabrics: and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.	Do.	Do.

SCHEDULE II—*contd.*

Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
1	2	3
16. Articles made of ivory, sandalwood or blackwood or inlaid therewith; ornamental metalware with enamelled or carved designs; and gold and silver filigree.	Nine pies in the rupee.	3/67th part.
17. Binoculars and opera glasses	Do.	Do.
18. Cigarette cases and lighters	Do.	Do.
19. Cloth of any kind sold at a rate not less than Rs. 3 per yard.	Do.	Do.
20. Domestic electrical appliances other than torches, torch cells, filament, lighting bulbs and fans.	Do.	Do.
21. Fireworks	Do.	Do.
22. Fountain pens (sold at a rate not less than rupees five each), stylograph pens and propelling pencils.	Do.	Do.
23. Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.	Do.	Do.
24. Glassware, chinaware and domestic pottery but excluding such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
25. Gramophones and component parts thereof and records.	Do.	Do.
26. Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial and cultured.	Do.	Do.
27. Ladies' handbags and vanity bags	Do.	Do.
28. Leather suit cases	Do.	Do.
29. Musical instruments	Do.	Do.
30. Perfumery (excluding synthetic essential oils), cosmetic and toilet articles, except soaps and other articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
31. Photographic and other cameras and enlargers, lenses, and other parts of and accessories to such cameras and enlargers and films, plates, paper and cloth required for use therewith.	Do.	Do.
32. Pile carpets	Do.	Do.
33. Plastic sheets, fabrics and articles made of plastic.	Do.	Do.
34. Playing cards	Do.	Do.
35. Shoes and footwear sold at a rate not less than rupees fifteen per pair.	Do.	Do.
36. Silk cloth and goods made from such cloth (excluding gas mantles).	Do.	Do.
37 Stainless steel sheets and articles made of stainless steel.	Do.	Do.
38. Table cutlery, including knives, forks and spoons.	Do.	Do.
39. Woollen goods excepting— .. (i) *kamblis* costing less than Rs. 12 each; and (ii) raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
40. Artificial silk yarn	Three pies in the rupee.	1/65th part.
41. Hides and skins of cattle, sheep and goats ..	Do.	Do.
42. Raw silk and silk yarn	Do.	Do.
43. Raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
44. Cotton (whether ginned or unginned) ..	One per cent.	Nil.
45. Cotton seed	Do.	Do.
46. Oil seeds	Do.	Do.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXIX OF 1952

(As read for the third time and passed by the Legislative Assembly on the 6th August 1952.)

(As read for the third time and passed with amendments by the Legislative Council on the 16th August 1952.)

(Amendments made by the Legislative Council were agreed to by the Legislative Assembly on the 19th August 1952.)

A Bill to consolidate and amend the law rela... to the levy of the tax on the sale or purcha... of goods in the State of Bombay.

[Dr. JIVRAJ N. MEHTA, M.L.A.]

MO-V Bk Hb 201—4

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REGISTERED No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

THURSDAY, 9TH OCTOBER 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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BOMBAY ACT No. XXIV OF 1952—An Act to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay 84-107

The following Act of the Bombay Legislature having been assented to by the President on the 1st October 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXIV OF 1952.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 9th October 1952.)

An Act to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of the tax on the sale or purchase of goods in the State of Bombay; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint:

Provided that in its application to the district of Amreli the provisions thereof shall until the State Government by notification in the *Official Gazette* directs otherwise, be construed subject to the modifications specified in section 46.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "agriculture" with its grammatical variations includes horticulture, the raising of crops, grass or garden produce, and grazing, but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood;

(*2*) "agriculturist" means a person who cultivates land personally;

(3) "appointed day" means the day which the State Government may by notification in the *Official Gazette* specify as the appointed day for the purposes of sections 5, 9, 10 and 47;

(4) "to cultivate" with its grammatical variations and cognate expressions means to carry on any agricultural operation;

(5) "to cultivate personally" means to cultivate on one's own account—

(i) by one's own labour, or

(ii) by the labour of one's own family, or

(iii) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

Explanation II.—In the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family;

(6) "Collector" means the Collector of Sales Tax appointed under section 3;

(7) "dealer" means any person who carries on the business of selling goods in the State of Bombay, whether for commission, remuneration or otherwise and includes a State Government which carries on such business and any society, club or association which sells goods to its members;

Explanation.—The manager or agent of a dealer who resides outside the State of Bombay and carries on the business of selling goods in the State of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act;

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause;

(8) "general tax" means the tax leviable under section 5;

(9) "goods" means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities;

(10) "licensed dealer" means a dealer who holds a licence granted under section 12;

(11) "prescribed" means prescribed by rules;

(12) "registered dealer" means a dealer registered under section 9;

(13) "rules" means rules made under this Act;

(14) "sale" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes any supply by a society, a club, or an association to its members on payment of price or on fees or subscription but does not include a mortgage, hypothecation, charge or pledge; the words "buy" and "purchase" shall be construed accordingly;

III of 1930.

Explanations.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930—

(*1*) an agreement for hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller, pending the payment of the entire amount of the price or any part thereof, retains property in the goods as security for the payment of the price, be deemed to be a sale made on the date of such agreement;

(*2*) the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State, shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State;

(*15*) "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged;

(*16*) "Schedule" means a schedule appended to this Act;

(*17*) "special goods" means goods specified in column 1 of Schedule II;

(*18*) "special tax" means the tax leviable under section 10;

(*19*) "tax" means the general tax, special tax or purchase tax payable under the provisions of this Act;

(*20*) "Tribunal" means the Tribunal constituted under section 4;

(*21*) "turnover" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and

(*22*) "year" means the financial year.

CHAPTER II.

Sales-tax Authorities and Tribunal.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the State Government may appoint any person to be a Collector of Sales Tax, and such other persons to assist him as the State Government thinks fit.

(*2*) A person appointed under sub-section (*1*) shall, within the limits of the area specified to be within his jurisdiction, exercise such powers as may be conferred and perform such duties as may be imposed on him by or under this Act.

Tribunal.

4. (*1*) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act.

(*2*) The Tribunal shall consist of not more than three persons possessing such [illegible] as may be prescribed.

(*3*) Where the Tribunal consists of three members, any two members of the [illegible] shall form the quorum for the disposal of its business.

(4) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(5) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and the disposal of its business.

(6) The regulations made under sub-section (5) shall be published in the *Official Gazette*.

CHAPTER III.

General Tax.

General Tax.

5. (1) Subject to the provisions of section 8, every dealer—

(a) whose turnover in respect of all sales made within the State of Bombay during any of the three consecutive years immediately preceding the first day of April 1952, has exceeded Rs. 30,000, or

(b) whose turnover in respect of such sales exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay the general tax at the rate specified in sub-section (1) of section 6 on his turnover in respect of sales of goods made on or after the appointed day :

Provided that a dealer to whom clause (a) does not apply but clause (b) applies shall not be liable to pay the general tax in respect of his turnover up to Rs. 30,000, as computed from the first day of April 1952.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay the general tax from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay, exceeds the limit specified in the said sub-section :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (1).

(3) Every dealer who has become liable to pay the general tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales made within the State of Bombay has failed to exceed the limit specified in sub-section (1) ; and such further period after the date of such expiry as may be prescribed and on the expiry of the latter period his liability to pay the general tax shall cease.

(4) Every dealer whose liability to pay the general tax has ceased under the provisions of sub-section (3) shall again be liable to pay the said tax with effect from the first day of April of the year during which his turnover in respect of all sales made within the State of Bombay again exceeds the limits specified in sub-section (1) :

Provided that such dealer shall not be liable to pay the general tax during such year in respect of his turnover up to the limit specified in sub-section (1).

(5) The general tax payable by a dealer under this section shall be in addition to the tax payable on special goods under section 10.

Levy and rate of general tax.

6. (1) The general tax payable by a dealer shall be levied at the rate of three pies in the rupee on his taxable turnover in respect of sales of goods :

Provided that the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer in respect of sales of bullion or specie at the rate of one-fourth per cent.

(2) The Collector may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period a lump sum by way of composition determined in the prescribed manner.

Taxable turnover for purpose of general tax.

7. The taxable turnover for the purposes of sub-section (*1*) of section 6 shall be determined in the following manner, namely :—

(*i*) From the turnover of the dealer in respect of all his sales of goods during any period of his liability to pay the general tax, there shall first be deducted his turnover during that period in respect of—

(*a*) sales of any goods declared from time to time as tax free under section 8, and

(*b*) such other sales as may be prescribed.

(*ii*) From that part of the balance remaining after making deductions under clause (i) which is in respect of sales of goods other than bullion and specie, there shall be deducted one-sixty-fifth part of such balance.

(*iii*) The balance remaining after making deductions under clauses (*i*) and (*ii*) shall be the taxable turnover for the purposes of sub-section (*1*) of section 6.

Goods free from general tax.

8. (*1*) No general tax shall be payable on the sales of goods specified in column 1 of Schedule I subject to the conditions and exceptions, if any, set out in the corresponding entry in column 2 thereof.

(*2*) The State Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification make additions, variations or omissions to or in the said Schedule or add to, vary or omit any of the conditions or exceptions, specified in the said Schedule, and thereupon the said Schedule shall be deemed to have been amended accordingly.

Registration of dealers.

9. (*1*) No dealer shall, while being liable to pay the general tax, carry on business as a dealer unless he has applied for registration within such period as may be prescribed :

Provided that for the purposes of this sub-section the turnover shall be calculated without making the deductions referred to in section 7.

(*2*) Every dealer required by sub-section (*1*) to apply for registration shall make an application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form.

(*4*) The prescribed authority may, from time to time, amend any certificate of registration after considering the information furnished under section 25 or otherwise received.

(*5*) When any dealer has been convicted under section 36 or has paid composition money under section 39 in respect of any contravention of sub-section (*1*), the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (*3*) on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of three consecutive years failed to exceed the limit specified in sub-section (*1*) of section 5 and the dealer has applied in the prescribed manner for cancellation of his registration,

the prescribed authority shall cancel the registration with effect from the prescribed date.

Bom. V of 1946.

(*7*) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force, immediately prior to the appointed day and to whom sub-section (*1*)

of section 5 applies, shall notwithstanding anything contained in sub-section (2) be deemed to be duly registered under sub-section (3).

(8) Every dealer whose registration under the Bombay Sales Tax Act, 1946, was in force immediately prior to the appointed day and to whom sub-section (1) of section 5 does not apply, shall apply in the prescribed manner to the prescribed authority for cancellation of his registration, and the said authority shall cancel his registration with effect from the prescribed date. Bom. V of 1946.

CHAPTER IV.

Special Tax.

Incidence and rate of special tax.

10. (1) Every dealer whose turnover in respect of all sales of special goods made within the State of Bombay—

(a) has exceeded Rs. 5,000 during the year ended on the thirty-first day of March 1952, or

(b) exceeds the said limit during the year commencing on the first day of April 1952,

shall with effect from the appointed day be liable to pay a special tax at the rate specified against them in column 2 of Schedule II on his taxable turnover in respect of sales of special goods made on or after the appointed day:

Provided that a dealer to whom clause (a) does not apply, but clause (b) applies shall not be liable to pay the special tax in respect of such turnover up to Rs. 5,000 as computed from the first day of April 1952.

(2) The special tax payable by a dealer under this section shall be paid in addition to the general tax, if any, payable by such dealer under section 5.

(3) Every dealer to whom sub-section (1) does not apply shall be liable to pay the special tax under this section with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay exceeds the limit specified in sub-section (1):

Provided that such dealer shall not be liable to pay the special tax during such year in respect of such turnover up to the limit specified in sub-section (1).

(4) Every dealer who has become liable to pay the special tax shall continue to be so liable until the expiry of three consecutive years during each of which his turnover in respect of all sales of special goods made within the State of Bombay has failed to exceed the limit specified in sub-section (1) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the special tax shall cease.

(5) Every dealer whose liability to pay the special tax has ceased under the provisions of sub-section (4) shall again be liable to pay the special tax with effect from the first day of April of the year during which his turnover in respect of all sales of special goods made within the State of Bombay again exceeds the limit specified in sub-section (1):

Provided that such dealer shall not be liable to pay the special tax under this section during such year in respect of such turnover up to the limit specified in sub-section (1).

(6) The State Government may by notification in the *Official Gazette* omit any of the entries in Schedule II or part thereof or reduce the rate of tax specified in the second column or vary the deduction specified in the third column thereof in respect of any of the said entries or parts thereof.

11. The taxable turnover for the purposes of sub-section (*1*) of section 10 shall be determined in the following manner, namely :— Taxable turnover for purposes of special tax.

(*i*) From the turnover of the dealer in respect of all his sales of special goods during any period of his liability to pay the special tax, there shall first be deducted his turnover in respect of—

(*a*) sales of special goods purchased by him on or after the appointed day at a place in the State of Bombay from a dealer holding a licence under section 12, provided that such goods have not been processed or altered by him in any manner;

(*b*) such other sales as may be prescribed.

Explanation.—If a dealer liable to pay the special tax transfers the ownership of the whole or any part of his business, the stock of goods transferred along with such business shall not for the purposes of clause (*a*) be deemed to be purchased by the transferee.

(*ii*) From the balance remaining after making deductions under clause (*i*), there shall be deducted such part of the balance as is specified in column 3 of Schedule II against each of the special goods and the remainder shall be the taxable turnover for the purposes of sub-section (*1*).

12. (*1*) No dealer shall, while being liable to pay the special tax, carry on business as such dealer unless he has applied for a licence within such period as may be prescribed : Dealer to obtain licence.

Provided that for the purposes of this sub-section the turnover in respect of all sales of special goods made within the State of Bombay shall be calculated without making the deductions referred to in section 11.

(*2*) Every dealer required by sub-section (*1*) to apply for a licence shall make an application in that behalf to the prescribed authority in the prescribed manner.

(*3*) If the prescribed authority is satisfied that an application for licence is in order, it shall grant a licence to the applicant in such form and for such period and subject to such conditions as may be prescribed.

(*4*) Any licence granted under sub-section (*3*) shall from time to time be renewable in the prescribed manner for such period as may be prescribed.

(*5*) A licence under this section shall be granted or renewed on payment of such fee not exceeding Rs. 5 as may be prescribed.

(*6*) When—

(*a*) any business in respect of which a licence has been granted under this section has been discontinued or transferred, or

(*b*) the turnover of any such business has during each of the three consecutive years failed to exceed Rs. 5,000 and the licensed dealer has applied in the prescribed manner for cancellation of his licence,

the prescribed authority shall cancel the licence with effect from the prescribed date.

CHAPTER V.

Returns, assessment, payment, recovery and refund of the tax and levy of tax on purchases.

Returns.

13. (*1*) Every registered dealer and every licensed dealer and every other dealer as may be required so to do by the Collector by notice served in the prescribed manner shall furnish such returns by such dates and to such authority as may be prescribed :

Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct.

(*2*) If any dealer having furnished returns under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return before the expiry of three months next following the period to which such return relates.

Assessment of taxes.

14. (*1*) The amount of the tax due from a registered or a licensed dealer shall be assessed separately for each year during which he is liable to pay the tax :

Provided that when a dealer has failed to furnish any return relating to any period in a year by the prescribed date, the Collector may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year :

Provided further that the Collector may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

(*2*) If the Collector is satisfied without requiring the presence of a dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of the tax due from the dealer on the basis of such returns.

(*3*) (*a*) If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns or such other evidence as may be specified in such notice.

(*b*) On the date specified in the notice or as soon afterwards as may be, the Collector shall, after considering such evidence as the dealer may produce and such other evidence as the Collector may require on specified points assess the amount of the tax due from the dealer.

(*4*) If a dealer having furnished returns in respect of a period fails to comply with the terms of the notice issued under sub-section (*3*), the Collector shall assess, to the best of his judgment, the amount of the tax due from the dealer.

(*5*) If a dealer does not furnish returns in respect of any period by the prescribed date, the Collector shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer.

(*6*) If upon information which has come into his possession, the Collector is satisfied that any dealer has been liable to pay the tax in respect of any period but has failed to apply for registration or licence, the Collector shall, after giving the

dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of the tax, if any, due from the dealer in respect of such period and all subsequent periods and in cases where such dealer has wilfully failed to apply for registration or for the grant of a licence, the Collector may direct the dealer to pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

Turnover escaping assessment.

15. If in consequence of any information which has come into his possession the Collector is satisfied that any turnover in respect of sales of any goods chargeable to the tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom, the Collector may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or has knowingly furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (*3*) of section 14 and may proceed to assess or re-assess the amount of the tax due from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section :

Provided that the amount of the tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be :

Provided further that where in respect of such turnover or deduction, as the case may be, an order has already been passed under section 30 or section 31, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

Payment and recovery of tax.

16. (*1*) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered or licensed dealer furnishes the returns required by sub-section (*1*) of section 13, he shall, in the prescribed manner, pay into a Government treasury the full amount of the tax due from him under this Act according to such returns.

(3) Where any registered dealer or licensed dealer furnishes a revised return in accordance with sub-section (2) of section 13 which shows a greater amount of tax than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of the tax.

(4) If any tax payable under this Act is not paid by any dealer within the prescribed period, the dealer shall pay, by way of penalty in addition to the amount of the tax, a sum equal to three-fourths per cent. of the amount of the tax for every month or part thereof of the prescribed period during which he continues to make default in payment of the tax.

(5) (i) The amount of tax—

(a) due where the returns are furnished without full payment thereof, or

(b) assessed for any period under section 14 or under section 15 less the sum, if any, already paid by the dealer in respect of such period, or

(ii) the amount of the penalty payable under sub-section (4),

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Collector for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Collector may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty, if any, by instalments.

(6) Any amount of the tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (5) shall be recoverable as an arrear of land revenue.

Special mode of recovery.

17. (1) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Collector, require—

(a) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (5) of section 16 or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of the tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

(2) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

Purchase tax.

18. (*1*) In the case of such goods, as may be notified by the State Government in the *Official Gazette* from time to time, which have been despatched or brought from any place in India outside the State of Bombay and are actually delivered as a direct result of a sale to a buyer in the State of Bombay for consumption therein, the buyer shall be liable to pay the tax on the purchase of such goods at the rate of three pies in the rupee and if such goods are special goods he shall also be liable to pay an additional tax at the rate specified in column 2 of Schedule II, unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer or a licensed dealer, as the case may be, and shall pay the tax on such sale in due course.

(*2*) Every buyer to whom sub-section (*1*) applies, shall furnish the prescribed authority with a statement in the prescribed form within the prescribed time regarding such purchases by him and shall also pay the tax in the prescribed manner, or produce a declaration of the seller, if any.

(*3*) The provisions of sub-sections (*5*) and (*6*) of section 16, and the provisions of section 17 shall apply to any amount of the tax payable under this section.

Refunds.

19. The Collector shall, in the prescribed manner, refund to a registered dealer or licensed dealer applying in this behalf any amount of the tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer by deduction of such excess from the amount of the tax due in respect of any other period :-

Provided that no claim to refund of the tax paid under this Act shall be allowed unless it is made within 24 months from the date on which the order of assessment was passed or within 12 months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later :

Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (*5*) of section 16 may have been issued and shall then refund the balance remaining, if any.

Remission of taxes.

20. The Collector may, subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable under this Act in respect of any period by any registered or licensed dealer who has suffered financially on account of riots or through natural calamities :

Provided that if the amount to be remitted exceeds Rs. 2,000 the remission shall not be made without the previous sanction of the State Government.

Prohibition against collection of tax in certain cases.

21. (*1*) No person shall collect any amount by way of general tax under this Act in respect of sales of any goods which are declared, from time to time, under section 8 as sales on which such tax is not payable.

(*2*) No person selling any goods shall collect from the purchaser any amount by way of the tax unless he is a registered dealer or a licensed dealer and is liable to pay the tax under this Act in respect of such sale :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose turnover in respect of all sales made within the State of Bombay exceeds Rs. 60,000 in a year shall issue a bill or cash memorandum in respect of all goods sold by him, and every licensed dealer shall issue a bill or cash memorandum in respect of any special goods sold by him, signed and dated by him or his servant, manager or agent, to the purchaser in respect of the goods sold by him showing the particulars of the goods and the price at which the goods are sold and shall keep the counterfoil or duplicate of

such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years from such date.

(4) If any person collects any amount by way of the tax in contravention of the provisions of sub-section (1) or (2) or if any registered dealer or licensed dealer collects any amount by way of the tax in excess of the amount payable by him under this Act, the amounts so collected shall, without prejudice to any prosecution that may be instituted against such person or dealer for any offence under this Act, be forfeited to the State Government and such person or dealer, as the case may be, shall, within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.

(5) If any person to whom sub-section (3) applies contravenes the provisions of the said sub-section, then without prejudice to any prosecution that may be instituted against such person, he shall be liable to a fine equal to double the amount of the bill or cash memorandum in respect of which such contravention has occurred or Rs. 100, whichever is less.

CHAPTER VI.

Liability to produce accounts, to supply information and to pay the tax in the case of transfer of business; and cancellation of certificate of registration or licence.

Accounts.

22. (1) Every registered dealer and every licensed dealer or any person liable to pay the tax under this Act and every other dealer who is required so to do by the Collector by notice served in the prescribed manner shall keep a true account of the value of the goods bought and sold by him, and if the Collector considers that such account is not sufficiently clear and intelligible to determine whether or not such dealer or any person is liable to pay the tax during any period under this Act, or to make a proper scrutiny of the returns or statements furnished by him, the Collector may require such dealer or person by notice in writing to keep such accounts (including records of sales or purchases) necessary for the purposes of proper assessment as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(2) The Collector may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

Production and inspection of accounts and documents, and search of premises.

23. (1) The Collector may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer or any other information, relating to his business as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Collector and the Collector may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(3) If the Collector has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3), the Collector may enter and search any place of business or warehouse of any dealer or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business.

(5) The provisions of sub-sections (1) to (4) shall also apply *mutatis mutandis* in the case of persons liable to pay the tax under section 18.

Dealer to declare the name of manager of his business.

24. Every dealer, who is liable to pay the tax under this Act and who is an undivided Hindu family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act Such declaration may be revised from time to time.

Information to be furnished regarding changes of business.

25. If any dealer to whom the provisions of this Act apply—

(*a*) sells or otherwise disposes of his business or any part of his business, or effects or comes to know of any other change in the ownership of the business; or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods sold by him,

he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

26. (*1*) When the ownership of the business of a dealer liable to pay the tax under this Act is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee, as if he were the dealer liable to pay such tax; and the transferee shall also be liable to pay tax under this Act on the sales of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration or licence, as the case may be, unless he already holds a certificate of registration or a licence, as the case may be.

(*2*) When a dealer liable to pay the tax under this Act transfers the ownership of a part of his business the transferor shall be liable to pay the tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods have been sold by him, unless the transferee holds a certificate of registration or licence, as the case may be, or obtains it within the prescribed period.

(*3*) (*i*) When a firm liable to pay the tax under this Act is dissolved, or

(*ii*) where an undivided Hindu family liable to pay tax under this Act is partitioned, such firm or family, as the case may be, shall be liable to pay tax under this Act on the goods allotted to any partner or member thereof as if the goods had been sold to such partner or member unless he holds a certificate of registration or a licence, as the case may be, or obtains it within the prescribed period.

(4) When a dealer to whom a part of the business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, or an undivided Hindu family which is partitioned, obtains a certificate of registration or a licence, as the case may be, he shall be liable to pay the tax on the turnover in respect of sales of goods made by him with effect from the date of such transfer of business, discontinuance or dissolution of the partnership, or the partition of the family, as the case may be.

CHAPTER VII.

Proceedings.

Power of Collector to determine disputes.

27. If any question arises otherwise than in a proceeding before a court whether or not, for the purposes of this Act,—

(*a*) any person, society, club or association, firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale, or

(*c*) any particular dealer is liable to registration or required to take a licence, or

(*d*) any tax is payable in respect of any particular sale,

the Collector shall make an order determining such question :

Provided that the Collector may in any such order direct that any such determination shall not affect the liability of any dealer under this Act in respect of any sale effected prior to the date of any such determination :

Provided further that if any such question arises from any order already passed under this Act, no proceeding shall be entertained for the determination under this section, but such question may be raised in any appeal or application for revision against such order, which lies under section 30 or 31.

Powers of Tribunal and Collector.

28. For the purposes of this Act,—

(*1*) the Tribunal and the Collector shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses ;

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Collector may administer the oath to the deponent.

Bar to certain proceedings.

29. Save as is provided by section 31, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided by sections 30 and 31 no appeal or application for revision shall lie against any such assessment or order.

Appeal.

30. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such assessment or other order :

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of the tax including penalty, if any, or on proof of payment of such smaller amount as it may direct.

(2) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think fit.

(3) Every order passed in appeal under this section shall subject to the provisions of sections 31, 34 and 35, be final.

Revision.

31. (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(2) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(3) Where a person could have appealed under section 30, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

32. In computing the period laid down under sections 30 and 31 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.

IX of 1908.

Extension of period of limitation in certain cases.

33. The prescribed authority may admit any appeal under section 30 and the Collector and the Tribunal may admit an application under section 31, after the period of limitation laid down in the said sections if the appellant or the applicant, as the case may be, satisfies the prescribed authority, the Collector or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application within such period.

Statement of case to High Court.

34. (1) Within ninety days from the passing by the Tribunal of any order under sub-section (2) of section 30 or sub-section (1) of section 31 affecting any liability of any dealer to pay tax under this Act, such person or the Collector may, by application in writing accompanied where the application is made by any person (other than the Collector) by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

(a) withdraw his application, or

(b) apply to the High Court against such refusal

and in the case of withdrawal under clause (a), the fee, if any, paid under sub-section (1) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (1)) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 19.

Rectification of mistakes.

35. (1) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer :

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Collector has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under section 30 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax, the Collector shall in the prescribed manner refund any amount due to the dealer.

(4) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Collector shall recover the amount due from the dealer in the manner provided for in section 16.

CHAPTER VIII.

Offences and Penalties.

Offences and Penalties.

36. Whoever—

(a) carries on business as a dealer without applying for registration or grant or renewal of licence in contravention of section 9, 12 or 26 , or

(b) fails without sufficient cause, to furnish any return or statement as required by section 13 or 18 or knowingly furnishes a false return or statement ; or

(*c*) not being a licensed dealer under section 12 falsely represents that he has been or was a licensed dealer at the time when he sells or sold any special goods; or

(*d*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 21; or

(*e*) fails to keep a true account of the value of the goods bought and sold by him as required by section 22, or fails, when directed so to do under that section to keep any accounts or records in accordance with the direction; or

(*f*) fails to comply with any requirement made of him under section 23; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 23; or

(*i*) neglects to furnish any information required by section 25; or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*);

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

Cognizance of offences.

37. (*1*) No court shall take cognizance of any offence punishable under section 36 or under any rules made under this Act, except with the previous sanction of the Collector and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

V of 1898.

Investigation of offences.

38. (*1*) Subject to such conditions as may be prescribed, the Collector may authorise any persons appointed under section 3 to assist him to investigate all offences punishable under this Act.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

V of 1898.

Compounding of offences.

39. (*1*) The Collector may, either before or after the institution of proceedings for any offence punishable under section 36 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged is under clause (*a*), (*b*), (*c*), (*e*) or (*g*) of section 36, not exceeding double the amount of tax which would have been payable on the sale or turnover to which the said offence relates, whichever is greater.

(*2*) On payment of such sum as may be determined by the Collector under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER IX.

Miscellaneous.

Persons appointed under section 3 and members of Tribunal to be public servants.

40. All persons appointed under section 3 and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Indemnity.

41. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

42. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*); (*a*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act, or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purpose of the said Act, or (*c*) to any authority acting in exercise of the powers conferred on it by any law of a State imposing a tax on the sale or purchase of goods where it is necessary to disclose the same to such authority for the purposes of the said law. XLV of 1860. XI of 1922.

Appearance before any authority in proceedings.

43. Any person, who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

Delegation of powers and duties and transfer of proceedings.

44. (*1*) Subject to such conditions and restrictions as the State Government may, by general or special order impose, the Collector may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

(*2*) The Collector may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person to whom he has delegated his powers and duties in respect thereof, and he may likewise transfer any such proceeding (including a proceeding already transferred under this sub-section) from one such person to another to whom the said powers and duties have been delegated or to himself.

Power to make rules.

45. (*1*) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

(*a*) the period for return of goods under clause (21) of section 2;

(*b*) the qualifications to be possessed by a member of the Tribunal;

(c) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 5 and sub-section (4) of section 10;

(d) the circumstances in which and the conditions subject to which the Collector may accept a lump sum by way of composition under sub-section (2) of section 6; and the manner of determining such sum;

(e) the other sales, turnover in respect of which may be deducted from a dealer's turnover in computing his taxable turnover as defined in section 7 and in section 11;

(f) the period within which, the manner in which and the authority to which application for registration shall be made under section 9;

(g) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 9 and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-sections (6) and (8) of that section;

(h) the period within which, the manner in which and the authority to which an application for licence shall be made under section 12;

(i) the form of licence under section 12 and the period for which and the conditions subject to which a licence shall be granted;

(j) the manner in which and the period for which a licence shall be renewed under section 12 and the fee for grant or renewal of a licence and the manner in which an application for cancellation of a licence shall be made and the date from which cancellation of licence shall take effect under sub-section (6) of that section;

(k) the returns to be furnished under section 13 and the dates by which, and the authority to which, such returns shall be furnished and the terms and conditions for purposes of the proviso to sub-section (1) of the said section 13;

(l) procedure to be followed for assessment under section 14;

(m) the intervals at which, and the manner in which, the tax shall be payable under section 16;

(n) the forms of certificate and statement, the manner in which, the authority to which and the period within which such certificate and statement shall be submitted under section 18;

(o) the manner in which refunds under section 19 shall be made;

(p) conditions subject to which tax may be remitted under section 20;

(q) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (4) of section 21;

(r) the accounts and forms thereof required by the Collector to be kept under sub-section (1) of section 22 and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (2) of the said section 22;

(s) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 23;

(t) the period within which, the authority to which and the manner in which a declaration shall be sent under section 24;

(u) the authority to which, and the time within which, information shall be furnished under section 25;

(v) the period within which a certificate of registration or licence shall be obtained under sub-section (2) or sub-section (3) of section 26;

(w) the manner in which, and the authority to which, an appeal against any order under this Act may be preferred under section 30;

(x) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 30 and 31;

(*y*) the conditions and the qualifications for the purposes of clause (*c*) of section 43;

(*z*) the manner in which, and the time within which, the applications shall be made, information furnished and notices served, under this Act;

(*za*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Modification in application of Act to district of Amreli.

46. In the application of this Act to the district of Amreli, the foregoing provisions shall be construed subject to the following modifications, namely:—

(*1*) in Schedule I, after entry No. 48, the following shall be added, namely:—

"49. Cloth manufactured in mills or on powerlooms,—

(*i*) made out of cotton yarn only, or

(*ii*) sold at a rate not exceeding rupees two per yard.

50. Sugar.

51. The grocery articles (*Kariana*) which the State Government may, by a notification in the *Official Gazette*, specify.

52. Oil of sesame (*tal*), safflower (*kardi*) and groundnut, when sold without being hydrogenated.

53. Domestic utensils of brass, copper and aluminium.";

(*2*) in Schedule II, the following items shall be deleted, namely:—

"(*i*) Articles (including rubber and other tyres, and tubes and batteries) adapted for use as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*;

(*ii*) All clocks, time-pieces and watches and parts thereof."

Repeal.

47. (*1*) The Bombay Sales Tax Act, 1946, and in the Third Schedule to the Bombay Merged States (Laws) Act, 1950, all the entries relating to the Bombay Sales Tax Act, 1946, are repealed with effect from the appointed day. Bom. V of 1946. Bom. IV of 1950. Bom.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect—

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the appointed day;

(*ii*) any legal proceeding or remedy pending in respect of any right, title, interest, obligation or liability or anything done or suffered before the appointed day and any such proceeding shall be continued and disposed of, as if this Act had not been passed;

(*iii*) the recovery of any tax or penalty which may have become payable under any of the Acts so repealed before the appointed day and all such taxes or penalties or arrears thereof shall be recovered, as the case may be, as if this Act had not been passed.

(*3*) Any appointment, notification, notice, order, rule, regulation or form made or issued under any of the enactments hereby repealed shall continue in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, regulation or form is not inconsistent with the provisions of this Act, unless and until it is superseded by an appointment, a notification, notice, order, rule, regulation or form made or issued under this Act.

(*4*) Any reference to the Bombay Sales Tax Act, 1946, contained in the Bombay Sales of Motor Spirit Taxation Act, 1946, shall, with effect from the appointed day, be deemed to be a reference to this Act. Bom. V of 1946. Bom. VI of 1946.

SCHEDULI

(*See* SECTION 8.)

Serial No.	Description of goods	Conditions and exceptions subject to which exemption has been allowed.
1	Agricultural implements worked or operated exclusively by human or animal agency of the following kinds :— Chaff-cutters, harrows ; iron and leather *mhots*, iron ploughs and plough-points ; *rahats* ; sickles ; wooden seed-drills ; pick-axes, shovels and spades.	
2	All cereals and pulses including all forms of rice ...	Except when sold in sealed containers.
3	Artificial silk yarn.	
4	Betel leaves.	
5	Betelnuts.	
6	Bread.	
7	Butter-milk and curds.	
8	Cattle, sheep and goats.	
9	Cattle-feed including fodder, cotton seed and other concentrates.	
10	*Charkha* and other implements used in the production of handspun yarn or handwoven cloth as may be specified by the State Government by notification in the *Official Gazette*.	
11	Cloth woven on handlooms out of mill-spun cotton yarn and sold at a rate not exceeding Rs. 1-8-0 per yard.	
12	Cotton (whether ginned or unginned).	
13	Cotton yarn.	
14	Edible oils manufactured in *ghanis* by human or animal agency.	When sold by such owners of *ghanis* as have been recognised for this purpose by the Collector of Sales Tax.
15	Electrical energy.	
16	Fertilizers.	
17	Firewood and charcoal.	
18	Fish	Except when sold in sealed containers.
19	Flour including *atta*, *maida*, *suji* and bran	Do. do.
20	Flowers.	
21	Food and non-alcoholic drinks consumed at a hotel, restaurant, refreshment room, eating house or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time by one person exceeds Rupee one.

SCHEDULE I—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
22	Fresh eggs.	
23	Fresh fruits.	
24	Fresh milk whole or separated.	
25	Fresh vegetables.	
26	Glass bangles sold at a rate not exceeding As. 2 each.	
27	*Gur*.	
28	Hides and skins of cattle, sheep and goats.	
29	Journals and periodicals published at intervals not exceeding one month.	
30	Kerosene.	
31	*Khaddar* and clothes and other articles of *khaddar* ...	When sold by dealers recognised for this purpose by the Collector of Sales Tax.
32	*Kum-kum*.	
33	Mangalsutra with black glass beads sold at a rate not exceeding Rs. 5 each.	
34	Manures including oilcakes.	
35	Matches.	
36	Meat	Except when sold in sealed containers.
37	Motor spirit, meaning—	
	(*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and	
	(*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid;	
	but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf.	
38	Oilseeds.	
39	Pepper, tamarind, chillies, chilly-powder and turmeric powder.	Except when sold in sealed containers.
40	Quinine and Tincture of iodine.	
41	Raw silk and silk yarn.	
42	Raw wool, wool tops and woollen yarn (other than knitting yarn).	
43	Salt.	
44	Slates and slate pencils; chalk-sticks and crayons; foot-rules, exercise and drawing books, lead pencils and mathematical and drawing instrument boxes used by primary and secondary school students.	
45	Stamp paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
46	Text books sanctioned by the State Government, the Director of Education for the State of Bombay, or the Educational Inspectors of Divisions or approved by the Bombay Municipal Schools Committee.	
47	Tobacco in any form whether manufactured or not.	
48	Water other than aerated and mineral waters.	

SCHEDULE II.

(*See* SECTION 10.)

	Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
	1	2	3
1.	All arms including rifles, revolvers, pistols and ammunition for the same.	One anna in the rupee.	1/17th part.
2.	Cinematographic equipment including cameras, projectors, enlargers and sound recording and reproducing equipment; lenses and other parts of and accessories to such equipment, and films, plates, paper and cloth required for use therewith.	Do.	Do.
3.	Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.	Do.	Do.
4.	Foreign liquor as defined in clause (17) of section 2 of the Bombay Prohibition Act, 1949, read with the proviso thereto.	Do.	Do.
5.	Iron and steel safes, almirahs and furniture ..	Do.	Do.
6.	(i) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries.	Do.	Do.
	(ii) Chasis of Motor vehicles.		
	(iii) Articles (including rubber and other tyres and tubes and batteries) adapted for use, as parts and accessories of motor vehicles, except such articles as may be specified by the State Government by notification in the *Official Gazette*.		
7.	Refrigerators and air-conditioning plants and parts thereof, except such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
8.	Sound-transmitting equipment including telephones and loud speakers.	Do.	Do.
9.	Tabulating, calculating, cash registering, indexing, cardpunching, franking and addressing machines and Adrema machines.	Do.	Do.
10.	Typewriters and duplicating and ronco machines and parts and accessories thereof.	Do.	Do.
11.	Upholstered furniture	Do.	Do.
12.	Wireless reception instruments and apparatus and radio gramophones and component parts thereof including all electrical valves, accumulators, amplifiers, loud speakers.	Do.	Do.
13.	All clocks, time-pieces and watches and parts thereof.	Nine pies in the rupee.	3/67th part.
14.	All fabrics and articles for personal wear in which the combined weight of silk and synthetic fibre (other than artificial silk) used is more than 50 per cent.	Do.	Do.
15.	All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered sold at a rate not less than Rs. 3 per yard and goods made from such fabrics; and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.	Do.	Do.

SCHEDULE II—*contd.*

Description of goods.	Rate of special tax.	Deduction under clause (ii) of section 11.
1	2	3
16. Articles made of ivory, sandalwood or blackwood or inlaid therewith; ornamental metalware with enamelled or carved designs; and gold and silver filigree.	Nine pies in the rupee.	3/67th part.
17. Binoculars and opera glasses	Do.	Do.
18. Cigarette cases and lighters	Do.	Do.
19. Cloth of any kind sold at a rate not less than Rs. 3 per yard.	Do.	Do.
20. Domestic electrical appliances other than torches, torch cells, filament, lighting bulbs and fans.	Do.	Do.
21. Fireworks	Do.	Do.
22. Fountain pens (sold at a rate not less than rupees five each), stylographic pens and propelling pencils.	Do.	Do.
23. Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.	Do.	Do.
24. Glassware, chinaware and domestic pottery but excluding such articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
25. Gramophones and component parts thereof and records.	Do.	Do.
26. Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial and cultured.	Do.	Do.
27. Ladies' handbags and vanity bags	Do.	Do.
28. Leather suit cases	Do.	Do.
29. Musical instruments	Do.	Do.
30. Perfumery (excluding synthetic essential oils), cosmetic and toilet articles, except soaps and other articles as may be specified by the State Government by notification in the *Official Gazette*.	Do.	Do.
31. Photographic and other cameras and enlargers, lenses, and other parts of and accessories to such cameras and enlargers and films, plates, paper and cloth required for use therewith.	Do.	Do.
32. Pile carpets	Do.	Do.
33. Plastic sheets, fabrics and articles made of plastic.	Do.	Do.
34. Playing cards	Do.	Do.
35. Shoes and footwear sold at a rate not less than rupees fifteen per pair.	Do.	Do.
36. Silk cloth and goods made from such cloth (excluding gas mantles).	Do.	Do.
37. Stainless steel sheets and articles made of stainless steel.	Do.	Do.
38. Table cutlery, including knives, forks and spoons.	Do.	Do.
39. Woollen goods excepting— (i) *kamblis* costing less than Rs. 12 each; and (ii) raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
40. Artificial silk yarn	Three pies in the rupee.	1/65th part.
41. Hides and skins of cattle, sheep and goats ..	Do.	Do.
42. Raw silk and silk yarn	Do.	Do.
43. Raw wool, wool tops and woollen yarn (other than knitting yarn).	Do.	Do.
44. Cotton (whether ginned or unginned) ..	One per cent.	Nil.
45. Cotton seed	Do.	Do.
46. Oil seeds	Do.	Do.

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